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TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

LISTS OF POSITIONS EXCEPTED; DEPARTMENT OF LABOR

At the request of the Secretary of Labor, § 6.4 (a) is amended as set out below, effective upon publication in the FEDERAL REGISTER.

1. Subdivisions (vi), (vii), and (viii) of § 6.4 (a) (13) are revoked.

2. A new subdivision (xiv) is added to § 6.4 (a) (13) as follows:

§ 6.4 *Lists of positions excepted from the competitive service*—(a) *Schedule A.* * * *

(13) *Department of Labor.* * * *

(xiv) Chief, Minorities Group Section, United States Employment Service.

(Sec. 6.1 (a) E. O. 9830, Feb. 24, 1947, 12 F. R. 1259)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] H. B. MITCHELL,
President.

[F. R. Doc. 47-8712; Filed, Sept. 25, 1947; 8:46 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter II—Production and Marketing Administration (Commodity Credit Corporation)

[1947 C. C. C. Cotton Form 2]

PART 256—COTTON LOANS

1947 INTERIM COTTON LOAN INSTRUCTIONS

Sec.	
256.121	Definitions.
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256.131	Time and manner of tendering loans for purchase.
256.132	Lending agency.
256.133	Repayments.

AUTHORITY: §§ 256.121 to 256.133, inclusive, issued under sec. 302, 52 Stat. 43, as amended; 7 U. S. C. 1302.

Commodity Credit Corporation will make loans available to eligible producers on eligible cotton of the 1947 crop harvested prior to the beginning of the regular 1947 Cotton Loan Program. Sections 256.121 to 256.133, inclusive, state the requirements of Commodity Credit Corporation with reference to such loans.

§ 256.121 *Definitions.* As used in §§ 256.121 to 256.133, inclusive, unless the context otherwise requires, the following terms will be construed respectively to mean:

(a) *Eligible producer.* An eligible producer shall be any person (individual, partnership, firm, corporation, association, joint-stock company, trust, estate, or other legal entity, or a State or political subdivision thereof, or an agency of such State or political subdivision) producing cotton in 1947 in the capacity of landowner, landlord, tenant, or sharecropper. Except as provided below, two or more producers may not obtain a joint loan. If the eligible cotton produced on a farm has been divided among the producers entitled to share in such cotton, each landlord, tenant, and sharecropper may obtain a loan on his separate share. If the cotton has not been divided, the landlord and one or more of the share tenants or sharecroppers may obtain a joint loan on their shares of such cotton. In no case shall a share tenant or sharecropper obtain a loan individually on cotton in which a landlord has an interest. In any case where a landlord obtains a loan on cotton in which a share tenant or sharecropper has an interest, he must have the legal right to do so, and the share tenant or sharecropper must be paid his pro rata share of the proceeds.

(b) *Eligible cotton.* Eligible cotton shall be cotton produced in the United States in 1947 which meets the following requirements:

(1) Such cotton must be of a grade and staple specified in the Table of Premiums and Discounts appended hereto.

(2) Such cotton must be represented by warehouse receipts complying with the provisions of § 256.128.

(3) Such cotton must not be compressed to high density.

(Continued on p. 6375)

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FEDERAL REGISTER

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such in parentheses.

[1] See Title 5, Part 6.

CODIFICATION GUIDE—Con.

(4) Such cotton must be free and clear of all liens and encumbrances, except those in favor of the warehouse in which the cotton is stored, as specified in the warehouseman's Certificate and Storage Agreement in 1947 CCC Cotton Form M (hereinafter referred to as "Form M").

(5) Such cotton must have been produced by the person tendering it for a loan, and he must have the legal right to pledge it as security for a loan.

(6) If the person tendering such cotton for a loan is a landlord or landowner, the cotton must not have been acquired by him directly or indirectly from a share tenant or sharecropper and must not have been received in payment of fixed or standing rent; and if it was produced by him in the capacity of landlord, share tenant, or sharecropper, it must be his separate share of the crop, unless he is a landlord and is tendering cotton in which both he and a share tenant or sharecropper have an interest.

(7) Each bale of such cotton must weigh at least 300 pounds.

(c) *Lending agency.* A lending agency shall be any bank, corporation, partnership, association, or person who has executed a Lending Agency Agreement (CCC Cotton Form N) covering loans on 1947 crop cotton.

(d) *Eligible paper.* Eligible paper shall be a Form M, duly executed, after June 1, 1947, and prior to September 1, 1947. State documentary revenue stamps should be affixed thereto where required by law. (A Form M executed by an administrator, executor, or trustee, will be acceptable only where valid in law and must be submitted for a direct loan by Commodity Credit Corporation unless accompanied by a repurchase agreement of the Lending Agency. Copies of this agreement may be obtained from the New Orleans Office, Commodity Credit Corporation, Production and Marketing Administration, New Orleans 12, Louisiana, (hereinafter referred to as the New Orleans Office).)

§ 256.122 *Forms.* The following documents must be delivered by the lending agency upon tender of notes to Commodity Credit Corporation for purchase:

(a) Form M complying with the provisions of § 256.121 (d).

(b) Warehouse receipts complying with the provisions of § 256.128.

(c) Lending Agency's Letter of Transmittal (C. C. C. Cotton Form O).

§ 256.123 *Amount.* The base loan rate applicable at each approved warehouse will be shown in the "Schedule of Base Loan Rates by Cities and Counties for Cotton Entering the 1947 Interim Cotton Loan" issued for this program by the New Orleans office. Premiums and discounts applicable to each grade and staple length are shown in the table appended hereto. Loans will not be made on grades or staple lengths of cotton not shown in such table. All loans will be made on the gross weight of the lint cotton, and an allowance of 7 pounds will be made for each bale wrapped in cotton bagging.

§ 256.124 *Classification of cotton.* All cotton must be classified by a Board of Cotton Examiners of the United States Department of Agriculture. Warehouseman should forward samples to the Board of Cotton Examiners serving the district in which the warehouse is located (the Austin, Corpus Christi, Dallas, Houston, and Galveston, Texas, offices will be open for classing cotton under this program), and a list showing the class of the cotton will be returned by the board. Instructions have been issued to approved warehouses concerning sampling and forwarding of samples and recording the class of the cotton in Form M. Form 1 Classification Memorandum of the United States Department of Agriculture will also be accepted as evidence of the class of cotton, provided the sample is a representative cut sample drawn in accordance with Instructions to Organized Groups for sampling cotton under the 1947 Smith-Doxey Program.

A charge of 20 cents per bale shall be collected from the producer for all cotton from which samples are drawn and submitted to a Board of Cotton Examiners for classification, except that no charge shall be collected for samples submitted for a Form 1 classification. The Boards of Cotton Examiners will make collections for classing charges from the warehousemen at the end of each month. A certified check, cashier's check, or postal money order payable to Treasurer of United States % Commodity Credit Corporation must be sent to the Board of Cotton Examiners by each warehouseman in payment of these charges.

§ 256.125 *Preparation of documents.* A producer desiring to obtain a loan may obtain the necessary forms from approved cotton warehouses and also from persons approved by the county agricultural conservation association committees in the cotton-producing areas to assist producers in preparing and executing the loan forms. Only persons approved by such committees for such purpose may execute the Clerk's Certificate in Form M. Such persons are permitted to collect fees from producers not to exceed the fees set out in section 5 (a) of the 1946 Cotton Loan Instructions (1946 C. C. C. Cotton Form 1). All entries must be made with ink, indelible pencil, or typewriter in the manner indicated therein, and no documents containing additions, alterations or erasures will be accepted by Commodity Credit Corporation. A duplicate copy shall be prepared and retained by the producer. The Schedule of Pledged Cotton must represent cotton of only one grade and staple length.

§ 256.126 *Certification of producer.* As evidence that the producer is entitled to a loan, Commodity Credit Corporation will accept the Clerk's Certificate on Form M.

§ 256.127 *Approved warehouses.* Warehouse receipts representing eligible cotton will be accepted as security for loans made pursuant to Form M only if issued by warehousemen approved by Commodity Credit Corporation. Warehousemen desiring to be approved should communicate with the New Orleans Office. When warehouses are approved, notification will be given either by letter or published lists. Warehouse receipts will also be acceptable if issued by warehousemen approved by the New Orleans Office under the 1947 Cotton Loan Program. All cotton pledged as security for any one loan must be in the same warehouse.

The Warehouseman is required, as provided in the Warehouseman's Certificate and Storage Agreement in Form M, to draw representative samples from the bales and to deliver or forward such samples to a Board of Cotton Examiners for classing, except where Form 1 Classification Memorandum of the U. S. Department of Agriculture is used.

§ 256.128 *Warehouse receipts.* Only negotiable warehouse receipts issued by an approved warehouse dated on or prior to the date of the producer's note and properly assigned by an endorsement in blank so as to vest title in the holders or issued to bearer will be acceptable. They must set out in their written or printed terms a description by tag number and weight of the bale represented thereby and all other facts and statements required to be stated in the written or printed terms of a warehouse receipt under the provisions of section 2 of the Uniform Warehouse Receipts Act. Warehouse receipts which by their terms will expire prior to July 31, 1948, must bear an endorsement of the warehouse extending the terms of the warehouse receipts through July 31, 1948. Block warehouse receipts will not be accepted.

§ 256.129 *Warehouse charges.* The warehouseman's charges are limited and his obligation defined by the Warehouseman's Certificate and Storage Agreement contained in Form M. This should be read carefully and must be executed by the warehouseman issuing the cotton warehouse receipts pledged as collateral to the producer's note. All warehouse charges must be paid to the dates of the warehouse receipts.

§ 256.130 *Liens.* Eligible cotton must be free and clear of all liens except in favor of the warehouse in which the cotton is stored, as specified in the Warehouseman's Certificate and Storage Agreement in Form M. The names of the holders of all existing liens on cotton tendered as security for a loan, such as landlords, laborers, or mortgagees (but not warehousemen), must be listed in the space provided therefor in Form M, and the lienholders so listed must execute the Lienholders' Waiver in such form. If the borrower is a tenant or sharecropper, the landlord must be listed in the List of Lienholders and must sign the lien waiver whether or not he claims a lien, unless the Producer's Note is signed jointly by the landlord and the tenant or sharecropper. A misrepresentation as to prior liens, or otherwise, will render the producer personally liable under the terms of the Loan Agreement and subject him to criminal prosecution under the provisions of section 35 (A) of the Criminal Code of the United States (18 U. S. C. 80). The Lienholders' Waiver in

Form M must be signed personally by all lienholders listed or by their agents, or, if a corporation, by the designated officer thereof customarily authorized to execute such instruments, in which case the duly executed authority need not be attached.

§ 256.131 *Time and manner of tendering loans for purchase.* Loans made by a lending agency which has executed and delivered a Lending Agency Agreement (C. C. C. Cotton Form N) to the New Orleans Office, prior to the making of the loan will be eligible for purchase by Commodity Credit Corporation. C. C. C. Cotton Forms N are obtainable only from the New Orleans Office. Under the terms of this agreement, lending agencies are required to tender to Commodity Credit Corporation, New Orleans 12, Louisiana, between September 1, 1947, and September 15, 1947, on Lending Agency's Letter of Transmittal (C. C. C. Cotton Form O), executed in triplicate, all notes on Form M, with collateral attached, which have not been paid by the producers. Upon receipt by Commodity Credit Corporation, the loan papers will be examined, and if found correct, will be approved and purchased. Unless the producer redeems the pledged cotton or converts his loan to a loan under the regular 1947 Cotton Loan Program prior to September 1, 1947, Commodity Credit Corporation will sell such cotton, by pooling or otherwise, as provided in Form M.

§ 256.132 *Lending agency.* The lending agency shall endorse the notes of producers as provided in Form M. Care should be exercised by the lending agency to determine that the warehouse receipts are genuine. No provision is made for any deduction from the loan proceeds by the lending agency as a charge for handling the loan documents, except the authorized clerk's fee in case the lending agency has executed the Clerk's Certificate in Form M.

§ 256.133 *Repayments.* No partial release of the cotton securing a note will be permitted. If a producer desires to repay his loan while the note is held by the lending agency, payment should be made directly to the lending agency. In such case, the lending agency is entitled to retain the principal amount of the note plus three percent interest.

Dated this 23d day of September 1947.

[SEAL] JESSE B. GILMER,
President,
Commodity Credit Corporation.

PREMIUMS AND DISCOUNTS FOR ALL QUALITIES OF 1947 AMERICAN UPLAND COTTON

[Basis 15/16 inch Middling]

Grade	Staple length (inches)													
	13/16	7/8	29/32	15/16	31/32	1	1 1/32	1 1/16	1 3/32	1 1/8	1 5/32	1 3/16	1 7/32	1 1/4 and longer
WHITE AND EXTRA WHITE	*Pts.*	*Pts.*	*Pts.*	*Pts.*	*Pts.*	*Pts.*	*Pts.*	*Pts.*	*Pts.*	*Pts.*	*Pts.*	*Pts.*	*Pts.*	*Pts.*
Good Middling and Better	−250	−95	−15	55	65	80	95	125	160	215	395	635	710	785
Strict Middling	−265	−105	−25	40	50	65	80	110	135	190	370	610	685	760
Middling	−300	−145	−70	Base	15	25	40	70	75	125	290	505	585	660
Strict Low Middling	−445	−295	−210	−130	−115	−105	−85	−65	−25	20	85	275	325	390
Low Middling	−790	−645	−575	−500	−495	−475	−460	−455	−380	−365	−350	−325	−300	−275
Strict Good Ordinary	−1,160	−1,025	−970	−905	−905	−895	−895	−895	−885	−885	−885	−885	−885	−885
Good Ordinary	−1,375	−1,220	−1,150	−1,075	−1,075	−1,070	−1,070	−1,065	−1,045	−1,045	−1,045	−1,045	−1,045	−1,045
SPOTTED														
Good Middling	−370	−230	−175	−90	−85	−70	−55	−30	−25	60	190	290	365	465
Strict Middling	−390	−255	−195	−115	−105	−95	−80	−55	−40	45	170	270	345	445
Middling	−570	−425	−370	−280	−275	−265	−250	−235	−260	−175	−125	−55	20	95
Strict Low Middling	−895	−745	−700	−630	−630	−615	−615	−605	−605	−585	−565	−550	−550	−550
Low Middling	−1,240	−1,105	−1,050	−975	−975	−960	−960	−955	−910	−910	−910	−910	−910	−910
TINGED														
Good Middling	−780	−630	−590	−505	−505	−495	−495	−490	−480	−450	−425	−375	−350	−325
Strict Middling	−810	−655	−615	−535	−530	−525	−520	−510	−505	−475	−450	−400	−375	−350
Middling	−1,040	−890	−835	−765	−765	−760	−760	−750	−645	−630	−630	−620	−620	−620
Strict Low Middling	−1,255	−1,130	−1,075	−1,010	−1,010	−1,005	−1,005	−1,000	−940	−940	−940	−940	−940	−940
Low Middling	−1,445	−1,315	−1,260	−1,200	−1,200	−1,195	−1,195	−1,190	−1,130	−1,130	−1,130	−1,130	−1,130	−1,130
YELLOW STAINED														
Good Middling	−1,075	−925	−880	−825	−825	−815	−815	−805	−725	−715	−715	−715	−715	−715
Strict Middling	−1,100	−950	−905	−850	−850	−840	−840	−830	−760	−750	−740	−740	−740	−740
Middling	−1,220	−1,070	−1,025	−970	−965	−965	−960	−955	−920	−920	−920	−920	−920	−920
GRAY														
Good Middling	−485	−345	−310	−235	−225	−215	−195	−175	−125	Even	50	125	175	250
Strict Middling	−550	−410	−375	−300	−285	−275	−260	−245	−165	−40	10	85	135	210
Middling	−655	−520	−475	−400	−390	−380	−370	−360	−300	−260	−235	−210	−185	−160

[F. R. Doc. 47-8707; Filed, Sept. 25, 1947; 8:46 a. m.]

TITLE 7—AGRICULTURE

Chapter VII—Production and Marketing Administration (Agricultural Adjustment)

PART 729—PEANUTS

APPORTIONMENT OF NATIONAL ACREAGE ALLOTMENT FOR PEANUTS FOR CROP PRODUCED IN 1948

The purpose of this proclamation is to apportion among the several peanut producing States the 1948 national peanut acreage allotment of 2,324,159 acres proclaimed on July 17, 1947 (12 F. R. 4880). Section 358 (c) of the Agricultural Adjustment Act of 1938, as amended, provides that the national acreage allotment shall be apportioned among States on the basis of the average acreage of peanuts harvested for nuts in the five years preceding the year in which the national allotment is determined, with adjustments for trends, abnormal conditions of production, and the State peanut-acreage allotment for the crop immediately preceding the crop for which the allotment is established. The act further provides that the allotment established for any State for any year subsequent to 1941 shall be not less than the allotment established for such State for the crop produced in the calendar year 1941, and that any acreage necessary to provide each State with an allotment equal to the 1941 State allotment shall be in addition to the national acreage allotment.

Public notice of the proposed apportionment was given (12 F. R. 5598) in accordance with the Administrative Procedure Act (60 Stat. 237). In apportioning the national acreage allotment among the States, the views and recommendations of peanut growers and other interested persons have been duly considered, within the limits prescribed by section 358 (c) of the act.

§ 729.603 *Apportionment of the national acreage allotment for the crop produced in the calendar year 1948 among the several peanut-producing States.* The national acreage allotment proclaimed in § 729.602 is hereby apportioned among the several peanut-producing States as follows:

State	1948 State acreage allotment
Alabama	362,447
Arkansas	8,604
California	[1] 1,257
Florida	73,526
Georgia	782,838
Louisiana	4,152
Mississippi	13,910
New Mexico	6,559
North Carolina	[1] 225,702
Oklahoma	147,197
South Carolina	24,259
Tennessee	5,187
Texas	562,626
Virginia	[1] 141,108

[1] Includes additional acreages of 527 acres for California, 5,490 acres for North Carolina, and 29,196 acres for Virginia, required to provide allotments equal to the 1941 State allotments.

(55 Stat. 88, 89; 7 U. S. C. Sup. 1358)

Done at Washington, D. C., this 23d day of September 1947.

[SEAL] CLINTON P. ANDERSON, *Secretary.*

[F. R. Doc. 47-8706; Filed, Sept. 25, 1947; 8:46 a. m.]

Chapter XXI—Organization, Functions, and Procedure

Subchapter C—Production and Marketing Administration

PART 2305—FRUIT AND VEGETABLE BRANCH

ORGANIZATION

Section 2305.1 (e) (1) of Title 7, issued September 11, 1946 (11 F. R. 177A-269), as amended (11 F. R. 13693), is further amended by deleting the last sentence and inserting, in lieu thereof, the following: "The Chief or Acting Chief of the Division is authorized to exercise all powers and perform all functions which the Director is or may hereafter be authorized to exercise or perform in the administration of said acts."

(Secs. 3, 12, 60 Stat. 238, 244; 5 U. S. C. Sup. 1002, 1011)

Issued this 22d day of September 1947.

[SEAL] S. R. SMITH, *Director, Fruit and Vegetable Branch, Production and Marketing Administration.*

[F. R. Doc. 47-8691; Filed, Sept. 25, 1947; 8:50 a. m.]

TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

PART 177—VISAS: DOCUMENTS REQUIRED OF ALIEN SEAMEN AND AIRMEN ENTERING THE UNITED STATES

Correction

In Federal Register Document 47-7231, appearing at page 5146 of the issue for Thursday, July 31, 1947, the words "as an immigrant" appearing in the last line of paragraph (i) of § 177.51, are corrected to read, "as a non-immigrant".

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Civil Air Regs., Amdt. 01-3]

PART 01—AIRWORTHINESS CERTIFICATES

MAINTENANCE REQUIREMENTS; MISCELLANEOUS AMENDMENTS

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 16th day of September 1947.

The purpose of this regulation is to delete the following sections of Part 01 regarding maintenance requirements which are not consistent with or are duplications of certain sections of Part 43 of the Civil Air Regulations.

Effective October 16, 1947, Part 01 of the Civil Air Regulations is amended by repealing the following sections:

§ 01.12 *Aircraft operation record requirements.*
§ 01.25 *Periodic inspection.*
§ 01.26 *Other inspections.*
§ 01.27 *Log-books.*
§ 01.270 *Log-books for rebuilt aircraft engines.*

(52 Stat. 984, 1007; 49 U. S. C. 425, 551)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 47-8714; Filed, Sept. 25, 1947; 8:46 a. m.]

[Civil Air Regs., Amdt. 41-11]

PART 41—CERTIFICATION AND OPERATION RULES FOR SCHEDULED AIR CARRIER OPERATIONS OUTSIDE CONTINENTAL LIMITS OF THE UNITED STATES

FLIGHT RECORDERS FOR SCHEDULED AIR CARRIER OPERATION

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 16th day of September 1947.

The regulation requiring the carriage of flight recorders in scheduled air carrier operations was repealed on June 9, 1944, because of material shortages.

Since the use of flight recorders by scheduled air carriers in both passenger and cargo service will promote safety and will constitute an aid in the determination of the facts, conditions, and circumstances of accidents in which such aircraft may become involved and also since flight recorders are now available, it is considered in the public interest to require their use.

Effective October 16, 1947, Part 41 of the Civil Air Regulations is amended by adding a new section to read as follows:

§ 41.24 *Flight recorder.* No aircraft shall be operated in scheduled air transportation after June 30, 1948, unless it is equipped with instrumentation to record continuously during flight the altitude of the aircraft and the vertical accelerations to which the aircraft may be subjected, the values of both these items to be recorded against a time scale of at least 2 inches to the hour. The recording device shall be substantially protected from jarring and from the effects of fire and shall be located as far back in the fuselage as practicable, in any case at least aft of the most rearward bulkhead. (52 Stat. 984, 1007; 49 U. S. C. 425, 551)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 47-8720; Filed, Sept. 25, 1947; 8:48 a. m.]

[Civil Air Regs., Amdt. 41-12]

PART 41—CERTIFICATION AND OPERATION RULES FOR SCHEDULED AIR CARRIER OPERATIONS OUTSIDE CONTINENTAL LIMITS OF THE UNITED STATES

MINIMUM RECENT EXPERIENCE REQUIREMENTS FOR AIR CARRIER FLIGHT RADIO OPERATORS, FLIGHT ENGINEERS, AND FLIGHT NAVIGATORS

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 16th day of September 1947.

The purpose of this amendment is to specify the minimum recent experience that flight radio operators, flight engineers, and flight navigators must have before serving in air carrier operations.

The amendment is necessary to insure that United States airmen, when accepted for duty, will meet the level of proficiency established by the International Civil Aviation Organization, and to further insure that this level will be maintained.

Compliance has been effected with the provisions of paragraphs (a) and (b) (notice and procedures) of section 4 of the Administrative Procedure Act.

Effective October 16, 1947, Part 41 of the Civil Air Regulations is amended as follows:

1. By adding a new § 41.314 to read as follows:

§ 41.314 *Qualification for duty.* A certificated flight radio operator shall not be assigned to nor perform duties for which he is required to be certificated unless, within the preceding 12-month period, he has had at least 4 months of satisfactory experience as a radiotelegraph operator and 25 hours of experience in the operation of aircraft radio during flight; or until the air carrier has checked the airman and has determined that he is (a) familiar with all current radio information pertaining to the routes to be flown and (b) competent with respect to the operating procedures and radio equipment to be used.

2. By amending § 41.322 to read as follows:

§ 41.322. *Qualification for duty.* A certificated flight engineer shall not be assigned to nor perform duties for which he is required to be certificated unless, within the preceding 12-month period, he has had at least 50 hours of experience as a flight engineer on the make and model aircraft on which he is to serve; or until the air carrier has checked the airman and determined that he is (a) familiar with all current information and operating procedures relating to the make and model aircraft to which he is to be assigned and (b) competent with respect to such aircraft.

3. By adding a new § 41.332 to read as follows:

§ 41.332 *Qualification for duty.* A certificated flight navigator shall not be assigned to nor perform duties for which he is required to be certificated unless, within the preceding 12-month period, he has had at least 50 hours experience as a flight navigator; or until the air carrier has checked the airman and determined that he is (a) familiar with all current navigational information pertaining to the routes to be flown and (b) competent with respect to the operating procedures and navigational equipment to be used.

(52 Stat. 984, 1007; 49 U. S. C. 425, 551)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 47-8719; Filed, Sept. 25, 1947; 8:48 a. m.]

[Civil Air Reg., Amdt. 42-6]

PART 42—NONSCHEDULED AIR CARRIER CERTIFICATION AND OPERATION RULES

EXEMPTION OF NONSCHEDULED AIR CARRIER AIRCRAFT FROM COMPLIANCE WITH ANNUAL AND PERIODIC INSPECTION REQUIREMENTS

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 16th day of September 1947.

The maintenance and inspection systems required by Part 61 insure the continued airworthiness of scheduled air carrier aircraft at least as effectively as the annual or periodic inspection requirements of Part 42 insure the airworthiness of nonscheduled air carrier aircraft.

The purpose of this regulation is to specifically exempt nonscheduled air carrier aircraft from the periodic and annual inspection requirements of Part 42, provided that such aircraft are maintained and inspected in a manner equivalent to that of scheduled air carrier aircraft which are governed by Part 61.

Effective October 16, 1947, Part 42 of the Civil Air Regulations is amended as follows:

1. By amending § 42.150 to read as follows:

§ 42.150 *Inspections.* (a) Aircraft shall be given an annual inspection within each 12 calendar months.

(b) Aircraft shall be given a periodic inspection within each 100 hours of flight time. The annual inspection required in (a) will be accepted as one such periodic inspection.

(c) Aircraft maintained and inspected in accordance with a continuous maintenance and inspection system in a manner provided for by Part 41 or 61 of this chapter and approved by the Administrator and authorized by the terms of the air carrier operating certificate are exempted from the requirements of (a) and (b) of this section. (52 Stat. 984, 1007; 49 U. S. C. 425, 551)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secertary.*

[F. R. Doc. 47-8716; Filed, Sept. 25, 1947; 8:47 a. m.]

[Civil Air Regs., Amdt. 43-10]

PART 43—GENERAL OPERATION RULES

EXEMPTION OF SCHEDULED AIR CARRIER AIRCRAFT FROM COMPLIANCE WITH ANNUAL AND PERIODIC INSPECTION REQUIREMENTS

Adopted by the Civil Aeronautics Board at its office in Washington, D. C. on the 16th day of September 1947.

The maintenance and inspection systems required by Parts 41 and 61 of the Civil Air regulations insure the continued airworthiness of air carrier aircraft at least as effectively as the annual or periodic inspections required by the general operation rules of Part 43.

The purpose of this regulation is to specifically exempt from the periodic and annual inspection requirements of § 43.22 those air carrier aircraft which are maintained and inspected in accordance with Part 41 or 61.

Effective October 16, 1947, Part 43 of the Civil Air regulations is amended as follows:

1. By amending § 43.22 to read as follows:

§ 43.22 *Inspections*—(a) *Annual inspection.* An aircraft shall not be flown, except for airworthiness flight tests, unless within the preceding 12 calendar months it has been given an annual inspection as prescribed by the Administrator and has been found to be airworthy by a person designated by the Administrator.

(b) *Periodic inspection.* An aircraft shall not be flown for hire, unless within the preceding 100 hours of flight time it has been given a periodic inspection by an appropriately rated mechanic in accordance with the periodic inspection report form prescribed by the Administrator, has been found to be airworthy, and a notation to that effect has been entered by such mechanic in the aircraft log. The annual inspection required by paragraph (a) of this section will be accepted as one such periodic inspection.

(c) *Air carrier exemption.* Air carrier aircraft are exempted from paragraphs (a) and (b) of this section when such aircraft are maintained and inspected in accordance with a continuous maintenance and inspection system as provided for by Part 41, 42, or 61 of this chapter. (52 Stat. 984, 1007; 49 U. S. C. 425, 551)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 47-8715; Filed, Sept. 25, 1947; 8:47 a. m.]

[Civil Air Regs., Amdt. 61-10]

PART 61—SCHEDULED AIR CARRIER RULES

MINIMUM RECENT EXPERIENCE REQUIREMENTS FOR AIR CARRIER FLIGHT ENGINEERS

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 16th day of September 1947.

The purpose of this amendment is to specify the minimum recent experience that flight engineers must have before serving in air carrier operations.

This amendment will promote safety in air commerce by insuring that flight engineers, when accepted for duty in certificated interstate air carrier operations, will be adequately qualified to perform their duties and that such qualifications will be maintained.

Compliance has been effected with the provisions of paragraphs (a) and (b) (notice and procedures) of section 4 of the Administrative Procedure Act.

Effective October 16, 1947, Part 61 of the Civil Air Regulations is amended by adding a new § 61.561 to read as follows:

§ 61.561 *Qualification for duty.* A certificated flight engineer shall not be assigned to nor perform duties for which he is required to be certificated unless, within the preceding 12-month period, he has had at least 50 hours of experience as a flight engineer on the make and model aircraft on which he is to serve; or until the air carrier has checked the airman and determined that he is (a) familiar with all current information and operating procedures relating to the make and model aircraft to which he is to be assigned and (b) competent with respect to such aircraft. (52 Stat. 984, 1007; 49 U. S. C. 425, 551)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 47-8717; Filed, Sept. 25, 1947; 8:47 a. m.]

[Civil Air Regs., Amdt. 61-11]

PART 61—SCHEDULED AIR CARRIER RULES

FLIGHT RECORDERS FOR SCHEDULED AIR CARRIER OPERATIONS

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 16th day of September 1947.

The regulation requiring the carriage of flight recorders in scheduled air carrier operations was repealed on June 9, 1944, because of material shortages.

Since the use of flight recorders by scheduled air carriers in both passenger and cargo service will promote safety and will constitute an aid in the determination of the facts, conditions, and circumstances of accidents in which such aircraft may become involved and also since flight recorders are now available, it is considered in the public interest to require their use.

Effective October 16, 1947, Part 61 of the Civil Air Regulations is amended by adding a new section to read as follows:

§ 61.341 *Flight recorder.* No aircraft shall be operated in scheduled air transportation after June 30, 1948, unless it is equipped with instrumentation to record continuously during flight the altitude of the aircraft and the vertical accelerations which the aircraft may be subjected, the values of both these items to be recorded against a time scale of at least 2 inches to the hour. The recording device shall be substantially protected from jarring and from the effects of fire and shall be located as far back in the fuselage as practicable, in any case at least aft of the most rearward bulk-

head. (52 Stat. 984, 1007; 49 U. S. C. 425, 551)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 47-8718; Filed, Sept. 25, 1947; 8:48 a. m.]

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

EXEMPTION OF CERTAIN SECURITIES OF INTERNATIONAL BANKING ORGANIZATIONS

Correction

In Federal Register Document 47-6349, appearing at page 4449 of the issue for Wednesday, July 9, 1947, the section number "240.14a-3" is corrected to read "§ 240.15a-3".

TITLE 32—NATIONAL DEFENSE

Chapter VIII—Office of International Trade, Department of Commerce

Subchapter B—Export Control

[Amdt. 353]

PART 801—GENERAL REGULATIONS

PROHIBITED EXPORTATIONS; MASS SPECTROMETERS

Section 801.2 *Prohibited exportations*, is amended as follows:

The list of commodities set forth in paragraph (b) is amended by adding thereto the following commodity:

Dept. of Commerce Schedule B No.	Commodity	GLV dollar value limits country group	
		K	E
	Scientific and professional instruments, apparatus and supplies:		
919098	Mass spectrometers	None	None

This amendment shall become effective September 1, 1947.

(Sec. 6, 54 Stat. 714, 55 Stat. 206, 56 Stat. 463, 58 Stat. 671, 59 Stat. 270, 60 Stat. 215, Pub. Law 145, 80th Cong., Pub. Law 188, 80th Cong.; 50 U. S. C. App. and Sup. 701, 702; E. O. 9630, Sept. 27, 1945, 10 F. R. 12245)

Dated: September 23, 1947.

W. S. THOMAS,
Acting Director,
Export Supply Branch.

[F. R. Doc. 47-8721; Filed, Sept. 25, 1947; 8:48 a. m.]

TITLE 42—PUBLIC HEALTH

Chapter I—Public Health Service, Federal Security Agency

PART 21—COMMISSIONED OFFICERS

This part is amended by adding thereto the following subpart:

SUBPART Q—FOREIGN SERVICE ALLOWANCES

AUTHORITY: §§ 21.351 to 21.359, inclusive, issued under sec. 12, 56 Stat. 364, 60 Stat. 858; 37 U. S. C. Sup. 112; Part II, E. O. 9871, July 8, 1947, 12 F. R. 4531.

SUBPART Q—FOREIGN SERVICE ALLOWANCES

§ 21.351 *Definitions.* As used in this subpart:

(a) "Continental United States" means the 48 States and the District of Columbia.

(b) "Dependent" means a dependent as defined in section 4 of the Pay Readjustment Act of 1942, as amended.

(c) "Travel allowance" means the per diem authorized for commissioned officers in a travel status.

(d) "Station allowance" means the allowance for quarters and subsistence authorized for commissioned officers who have been assigned to stations outside the continental United States on permanent change of station orders.

(e) "Government quarters" means any sleeping accommodations owned or leased by the Government, or under its control, or furnished by a foreign government under agreement with the United States Government either on a complimentary basis to the individual or on a basis involving a service charge to the individual, including dormitories or similar facilities operated on a cost-plus-a-fixed-fee contract, regardless of whether a service charge is paid by the officer. "Government quarters" shall not be construed to include sleeping accommodations on aircraft, trains, or buses.

(f) "Government mess" means any military or naval mess which furnishes meals to officers and which is available to a commissioned officer of the Public Health Service, regardless of the fact that a minimal sum may be charged for such meals. "Government mess" does not include restaurants and cafeterias operated by post exchanges or officers' clubs.

§ 21.352 *General.* (a) Effective September 1, 1947, the regulations and rates prescribed herein will govern reimbursement to all commissioned officers outside the continental United States for travel allowances and station allowances. All existing travel allowances and station allowances prescribed for officers on duty outside of the continental United States are superseded by the travel allowances and station allowances hereby prescribed.

(b) Effective September 1, 1947, all commissioned officers entitled to the allowances set forth herein will receive such allowances instead of any allowances that may be stated in their existing orders. Amendment of such orders will not be necessary. Payment will be made under existing orders in accordance with the rates herein prescribed.

§ 21.353 *Locality classification.* Each country or area for which a travel allowance or station allowance is authorized is classified and listed in Appendix A. In the event of an increase or decrease in the cost of living in any country or area, the Surgeon General, with the approval of the Administrator, may reclassify such area or country, having regard to the changed conditions.[1] Officers on duty outside the continental United States may be required to submit reports deemed necessary by the Surgeon General for determining the cost of living in an area or country in which they are performing duty.

§ 21.354 *Station allowances*. (a) Officers must apply for government quarters and the privilege of eating in government messes, whenever feasible. The station allowances authorized in this subpart will be paid only when such quarters and messes are not available for the officer and his dependents, if any, accompanying him, but such quarters and messes will not be considered available when the duties being performed by the officer would not make their use feasible. For each day that government quarters are available no station allowance for quarters shall be paid for that day. For each meal available in a government mess one-third of the station allowance for subsistence shall be deducted from the officer's allowance. Government quarters will not be considered unavailable by reason of a requirement of payment by the officer of incidental room fees with respect to such quarters.

(b) No station allowance shall be payable to any officer for any period with respect to which he is in receipt of a travel allowance for travel performed in connection with permanent change of station orders.

§ 21.355 *Continuation of station allowances while absent from permanent station.* (a) Officers entitled to receive station allowances for quarters shall, while their permanent stations remain unchanged, continue to receive such station allowances at all times, except during terminal leave.

(b) Officers entitled to receive station allowances for subsistence shall, while their permanent stations remain unchanged, continue to receive such allowances, except:

(1) During terminal leave;

(2) When in receipt of travel allowance for temporary duty travel;

(3) On authorized leave of absence in the United States from the date follow-

[1] Under the provisions of Part II, Executive Order 9871, allowance rates are required to be "uniform for all the services."

ing the day of departure from permanent overseas station until date prior to day of return thereto;

(4) In fact being subsisted at Government expense during a period of hospitalization.

§ 21.356 *Travel allowances.* (a) (1) When traveling on temporary duty or under orders directing a permanent change of station between two points of duty, the travel allowance applicable to the point of departure shall commence upon the date of departure and shall govern through the day prior to the date of arrival at the new point of duty, unless the travel is completed during one calendar day in which event the travel allowance applicable to the new point of duty shall, if higher, govern for that day. If travel is continuous from one point of duty to another, the fact that the rates of travel allowance may vary at various points along the route of travel will not affect the computation of the allowance which is otherwise authorized by this section. The travel allowance applicable to the new point of duty shall commence upon the date of an officer's arrival at such point.

(2) If the travel is performed under permanent change of station orders, the rate applicable to the new point of duty shall be paid only for the day of arrival and thereafter the officer shall only be entitled to the station allowance applicable to such point of duty, if any.

(3) If travel is performed under temporary duty orders the day of an officer's return to his permanent station shall be considered as a day of travel and the rate of allowance applicable to such station shall govern for that day and thereafter the officer shall only be entitled to the station allowance applicable to such station, if any.

(4) The day of arrival in and all travel within the continental United States in connection with travel from a foreign duty station shall be at the rate prescribed for the United States.

(b) (1) An officer in a travel status involving temporary duty away from his permanent station in an area or country where a station allowance is provided will receive the travel allowance prescribed for that area or country for a period not to exceed 30 days at any one point of duty. In the event that an officer remains in a temporary duty travel status at any one point in excess of 30 days, his travel allowance shall be computed at the rate prescribed as the station allowance (subsistence and quarters) for such point for the period of time in excess of 30 days.

(2) Time spent at any one point of duty will be cumulative when traveling on one continuous trip away from a permanent duty station. An officer shall not return to his permanent duty station and then return to the same point of temporary duty for the purpose of extending the period of 30 days for which the maximum travel allowance is payable at any one point.

(c) For each day that Government quarters are available during a period of travel in an area or country where a station allowance is prescribed, (1) an officer shall have deducted from his travel allowance the sum of $3.00 if the station quarters allowance prescribed for such area is $3.00 or less, or he shall have deducted from his travel allowance an amount equal to the station quarters allowance prescribed for that area or country if such allowance is greater than $3.00, and (2) if an officer on temporary duty is at the same point of duty in excess of 30 days, he shall have deducted from his travel allowance (as computed under paragraph (b) (1) of this section) the exact amount of the station quarters allowance applicable to such point for the period of time in excess of 30 days.

(d) During any period of travel in an area or country where a station allowance is prescribed, an officer shall have deducted from his travel allowance for each meal available in a Government mess one third of the station allowance for subsistence prescribed for such area or country.

(e) (1) An officer who is traveling in a country or area where no station allowance is prescribed is entitled to the rates set forth below:

	No quarters available	Quarters available
1st through 30th day at any one point of duty	$7.00	$4.00
31st through 60th day at the same point of duty	4.00	2.00
After 60th day to the end of the temporary duty at the same point of duty	2.00	0

(No deductions shall be made from the travel allowance authorized by this paragraph for meals available in a Government mess.)

(2) In computing the allowance authorized by this paragraph time spent at any one point of duty will not be cumulative when traveling on one continuous trip away from a permanent duty station as provided in paragraph (b) (2) of this section.

§ 21.357 *Officers on detail.* Officers serving on detail with the Army, Navy, Marine Corps, Coast Guard, or Coast and Geodetic Survey, shall be entitled to receive the station allowances and travel allowances prescribed under regulations of the service to which detailed.

§ 21.358 *Certificates required.* (a) Each voucher on which an officer claims a travel allowance or station allowance shall contain on the reverse side thereof one of the following certificates over the payee's signature, as the case may be:

(1) If the voucher claims a travel allowance involving travel in an area or country for which no station allowance is authorized, the certificate shall read:

I further certify that during the period covered by this voucher, Government quarters were not available except on the following dates --

(2) If the voucher claims a travel allowance involving travel in a country or an area for which a station allowance is prescribed, or travel partly in a country or area for which a station allowance is prescribed and partly in a country or area for which no station allowance is prescribed, the certificate shall read:

I further certify that during the period covered by this voucher, Government quarters were not available except on the following dates --
and Government mess was not available except for the number of meals indicated on the following dates --

(3) If the voucher claims a station allowance, the certificate shall read:

I further certify that during the period covered by this voucher, (1) Government quarters were not available except on the following dates --

(2) Government mess was not available except for the number of meals indicated on the following dates --

(3) I was not in receipt of a temporary duty travel allowance except on the following dates --

(4) I was not in receipt of a travel allowance for a permanent change of station except on the following dates --

(5) I was not on authorized leave of absence in the United States, and

(6) I was not in fact subsisted at Government expense during a period of hospitalization except on the following dates --

(b) If travel is performed under permanent change of station orders during any month for which a station allowance is claimed, the officer's pay voucher for that month shall include the location of and date of departure from the old station and the location of and date of arrival at the new station.

(c) If travel is performed on temporary duty during any month for which a station allowance for subsistence is claimed the officer's pay voucher for that month shall include the dates of his departure from and return to his permanent station.

(d) If an officer is claiming a travel allowance for temporary duty, his travel voucher shall include the location of his permanent station and all intermediate points at which duty was performed during the period of travel and the dates of arrival at and departure from all such points.

§ 21.359 *Method of payment.* (a) Payment of travel allowances prescribed herein to officers in a travel status will be made on Standard Form 1012.

(b) Payment of station allowances will be made on the officer's regular monthly pay voucher.

[SEAL] THOMAS PARRAN, *Surgeon General.*

Approved: September 22, 1947.

OSCAR R. EWING, *Federal Security Administrator.*

APPENDIX A—FOREIGN SERVICE ALLOWANCE RATES

OFFICERS

Class I

Station			Travel
Subsistence	Quarters	Total	
None	None	None	$7.00

NOTE: The above allowances are applicable to all countries and places outside the continental United States not otherwise listed herein.

APPENDIX A—FOREIGN SERVICE ALLOWANCE RATES—Continued

OFFICERS—continued

Class II

Station			Travel
Subsistence	Quarters	Total	
$2.55	$2.50	$5.05	$8.00

Czechoslovakia.

Class III

$2.55	$3.75	$6.30	$9.00

Hungary.

Class IV

$3.00	$0.75	$3.75	$7.00

Cuba (except Havana), Belgium.

Class V

$3.00	$1.00	$4.00	$7.00

Afghanistan, Algeria, Alaska, Argentina, Bermuda, China, Colombia, Havana, Cuba, Denmark, Ethiopia, Finland, France (except Paris), Irish Free State, Italy, Liberia (except Monrovia), Mexico City, Netherlands, Norway, Portugal, Spain, Sweden, Tunisia, Union of South Africa, Uruguay.

Class VI

$3.75	$0.75	$4.50	$7.25

Burma (except Rangoon).

Class VII

$3.75	$1.00	$4.75	$8.00

Iceland.

Class VIII

$3.75	$1.50	$5.25	$8.00

Rio de Janeiro, Brazil; Sao Paulo, Brazil; Ceylon; Egypt; Paris, France; India; French Indo-China; Turkey; Philippine Islands; London.

Class IX

$3.75	$2.00	$5.75	$9.00

Switzerland.

Class X

$3.75	$3.00	$6.75	$10.00

Yugoslavia.

Class XI

$3.75	$4.00	$7.75	$11.00

Bulgaria, Netherlands East Indies.

Class XII

$4.50	$1.50	$6.00	$9.00

Syria, Monrovia, Liberia.

Class XIII

$5.25	$1.75	$7.00	$10.00

Iraq, Trans-Jordan, Palestine.

No. 189——2

APPENDIX A—FOREIGN SERVICE ALLOWANCE RATES—Continued

OFFICERS—continued

Class XIV

Station			Travel
Subsistence	Quarters	Total	
$6.00	$1.50	$7.50	$10.00

Republic of Lebanon; Rangoon, Burma; Singapore.

Class XV

$6.00	$2.75	$8.75	$12.00

Union of Soviet Socialist Republics.

Class XVI

$6.00	$3.00	$9.00	$12.00

Venezuela.

SPECIAL CLASSIFICATION

$8.25	$3.75	$12.00	$12.00

Greece (personnel not in receipt of diplomatic exchange rate).

NOTE: Greece (personnel in receipt of diplomatic exchange rate, allowances prescribed in Class I applicable).

$5.25	$3.75	$9.00	$9.00

Punta Arenas, Chile.

$10.50	$4.50	$15.00	$15.00

Poland (personnel not in receipt of diplomatic exchange rate).

NOTE: Poland (personnel in receipt of diplomatic exchange rate, allowances prescribed in class I applicable).

[F. R. Doc. 47-8705; Filed, Sept. 25, 1947; 9:18 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

Chapter I—Interstate Commerce Commission

[R. S. O. 769]

PART 95—CAR SERVICE

BOX CARS TO BE STOPPED TO COMPLETE LOADING

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 22d day of September A. D. 1947.

It appearing, that there is a critical shortage of railroad box cars; that shippers are appropriating such cars and shipping them almost empty to other points to complete loading with lumber; that such practice is wasteful and aggravates the car shortage, depleting and diminishing the use, control, supply, distribution and interchange of such cars; the Commission is of opinion that an emergency requiring immediate action exists in the States of Oregon and Washington: It is ordered, that:

§ 95.769 *Box cars to be stopped to complete loading.* (a) No common carrier by railroad subject to the Interstate Commerce Act shall accept for transportation, or transport or move, any railroad box car (whether ordered or appropriated without being ordered) which car is loaded with lumber in Oregon or Washington and tendered to be forwarded to another point to be stopped off to complete the loading thereof, unless or until the shipper or consignor certifies on the bill of lading that the lumber loaded in the car at the first loading point equals or exceeds fifteen percent (15%) of the tariff minimum weight.

(b) *Application.* The provisions of this section shall apply to intrastate and foreign commerce as well as interstate commerce.

(c) *Regulations suspended announcement required.* The operation of all rules and regulations insofar as they conflict with the provisions of this section is hereby suspended and each railroad subject to this section or its agent, shall publish, file, and post a supplement to each of its tariffs affected hereby, in substantial accordance with the provisions of Rule 9 (k) of the Commission's Tariff Circular No. 20 (§ 141.9 (k) of this chapter) announcing such suspension.

(d) *Special and general permits.* (1) The provisions of this section shall be subject to any special or general permits issued by the Director, Bureau of Service, Interstate Commerce Commission, Washington, D. C.

(2) Permits issued under the original order for lumber shall continue to be effective under this revised order.

(e) *Effective date.* This section shall become effective at 12:01 a. m., September 24, 1947.

(f) *Expiration date.* This section shall expire at 11:59 p. m., April 15, 1948, unless otherwise modified, changed, suspended or annulled by order of this Commission.

It is further ordered, that the order shall vacate and supersede Service Order No. 769 on the effective date hereof; a copy of this order and direction shall be served upon each State railroad regulatory body, and upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(40 Stat. 101, sec. 402, 41 Stat. 476, sec. 4, 54 Stat. 901; 49 U. S. C. 1 (10)-(17))

By the Commission, Division 3.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 47-8692; Filed, Sept. 25, 1947; 8:50 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Part 978]

HANDLING OF MILK IN NASHVILLE, TENN., MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS THERETO WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND TO PROPOSED ORDER

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR, Supps., 900.1 et seq.; 11 F. R. 7737; 12 F. R. 1159, 4904), notice is hereby given of the filing with the Hearing Clerk of a recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to a proposed marketing agreement and to a proposed order regulating the handling of milk in the Nashville, Tennessee, marketing area, to be made effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

Interested parties may file written exceptions to this recommended decision with the Hearing Clerk, Room 0308, South Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 10th day after publication of this recommended decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. A public hearing, on the record of which the proposed marketing agreement and order have been formulated, was called by the Production and Marketing Administration, United States Department of Agriculture, following receipt of a proposed marketing agreement and order filed by the Nashville Milk Producers, Inc. Additional proposals for consideration were submitted by handlers in the proposed Nashville marketing area. The public hearing was held at Nashville, Tennessee, on June 23, to 27, and June 30, to July 1, 1947, all dates inclusive, pursuant to a notice issued on May 27, 1947 (12 F. R. 3414).

The material issues presented on the record were:

(a) Whether the handling of milk in the Nashville, Tennessee, marketing area is in the current of interstate commerce or directly burdens, obstructs, or affects interstate commerce;

(b) Whether marketing conditions justify the issuance of an order regulating the handling of milk in the Nashville, Tennessee, marketing area; and

(c) If issuance of such an order is justified, what its provisions should be.

The evidence on this issue involved the following:

(1) The extent of the marketing area;

(2) The definitions of "producer," "handler," "fluid milk plant," and other terms;

(3) The classification of milk and milk products;

(4) Transfers of milk between handlers and between handlers and nonhandlers;

(5) Allocation of classified skim milk and butterfat;

(6) The determination and level of class prices;

(7) Payments to producers;

(8) The amount of administrative assessment;

(9) The amount of deduction, for marketing services; and

(10) The administrative provisions common to all orders.

Findings and conclusions. Upon the basis of the evidence adduced at such hearing, it is hereby found and concluded that:

(a) The handling of milk in the Nashville, Tennessee, marketing area is in the current of interstate commerce and directly burdens, obstructs, and affects interstate commerce in milk and its products.

The total milk production of the nation is directed into several channels: (1) milk for consumption as fluid milk; (2) milk for consumption as fluid cream; and (3) milk for conversion into and consumption as condensed or evaporated milk, powdered milk, cheese, butter, ice cream, and many other products.

Significant regional differences exist in the production of milk for various uses. There is a rather high degree of regional concentration of the factory production of butter, cheese, and evaporated milk. Outside the area of concentration, most of the milk is consumed as fluid milk or fluid cream or is made into butter on farms.

Manufactured dairy products, to a less extent cream, and to a lesser extent fluid milk, may be readily stored and transported. With respect to cream and manufactured products, the ease with which they may be stored and transported results in a free flow of those products between markets. Many of the consuming markets for these products are located far beyond the boundaries of the state in which the particular products are manufactured.

The motivating factor in the movement of dairy products between markets is the relative price of such products in such markets. The free flow of manufactured products between different markets in response to price changes results in a decidedly close correlation between the price of dairy products in different markets. Not only is there a close intermarket price relationship with regard to dairy products, but also the supply of the raw materials, butterfat, and nonfat milk solids, are interchangeable between products, and as a result the prices received by producers for milk or butterfat, regardless of the use to be made of it, tend to be markedly interrelated.

The producer price interrelationships are due to the fact that farmers can and do shift their milk or butterfat from one outlet to another as price conditions warrant, thereby tending to keep the farm prices of milk and butterfat in any one of the several uses closely related to the farm prices of milk and butterfat in all other uses.

The close interrelationship of prices between milk for fluid distribution and milk for manufactured purposes indicates that the interchangeability of supplies of milk for fluid distribution and of milk for manufacturing purposes is such that prices of milk for fluid distribution in any given area are subject, in a considerable degree, to the same supply and demand forces on a regional and on a national scale, as are prices for milk for manufacturing uses.

There is one large market for dairy products as a whole, and this market is broken down into markets for the several products and into a large number of local submarkets for fluid milk and cream, one for each city, town, or village. This results from the fact that the fluid uses of milk and cream compete with manufacturing uses, and that supplies flowing into these local markets shift from one use to another whenever prices change relatively.

The close relationship between fluid milk and manufactured milk prices may be explained, in part, by the fact that it is impossible to forecast accurately the daily requirements of fluid milk in any milk market, so that some milk intended for fluid distribution finds its way into manufactured dairy products. In addition, producers will, over a period of time, shift their methods of disposal of milk in accordance with changing price relationships.

The prices received by producers for milk entering into manufacturing use are closely related to the United States average farm price for butterfat. Furthermore, the prices received by producers for milk used for fluid consumption are closely associated with the price received by producers for milk entering all other uses. About 42 to 44 percent of the milk produced for commercial disposition is produced to supply fluid milk markets and, because of the uncertainties of demand and supply associated with fluid milk markets, the milk produced for such outlets cannot be isolated economically.

The fluid milk price in any given market will influence the prices in other distant markets and the price of milk used in manufactured dairy products flowing across state lines. In periods of surplus production there is a greater incentive for destructive producer price competition. In an unstabilized market where returns to producers are not based upon proportionate sharing of the fluid milk sales under a classified price plan, there is a tendency, created by the pressure of producers to have a share of the higher priced or fluid market, for the market price to be reduced below the point justified by the existing supply and demand situation in the fluid market. With a declining price in the fluid

market in such instances there results an adverse effect on the market of other manufactured products, which effect is spread through a series of price repercussions effecting a decline of prices at other outlets for milk in all its various uses, including other fluid milk. It does not matter that the initial movement in this direction occurs in a market receiving its total supply within a single state. A slump in the price of milk in any sizable market tends to encourage producers to transfer their milk to available facilities for manufactured milk products, which transfer results in an increased amount of dairy products being manufactured locally.

The Nashville fluid milk market is not "isolated" from other fluid milk markets or from the market for manufactured milk. Milk and milk products move into and out of the Nashville market without regard to state boundaries, and the milk produced for the Nashville market competes with milk and its products moving in the current of interstate commerce through manufacturing outlets and other fluid milk markets, as is evidenced by the following:

(1) The supply of producer milk has been insufficient to meet the demands for bottled fluid milk, buttermilk, milk drinks, and cream thereby necessitating the importation of approved supplementary supplies. The record indicates that the supply of producer milk represented less than 75 percent in 1945 and less than 66 percent in 1946 of the volume of bottled fluid milk, buttermilk, milk drinks, and cream sold by Nashville handlers. The remaining portions of such sales were received in the form of cream, condensed skim milk, and nonfat dry milk solids from sources outside of the State of Tennessee, principally Wisconsin. The record further indicates that substantial quantities of such supplementary supplies have continued to be received during 1947. These receipts are commingled with producer milk in the plants of Nashville handlers and sold in competition with producer milk.

(2) Milk produced in the Nashville milkshed for consumption as fluid milk in the Nashville marketing area is purchased in competition with milk produced for fluid milk markets in other states, including Huntsville, Birmingham, and Gadsden, Alabama, and Atlanta, Georgia. Producers originally supplying milk to handlers in the Nashville marketing area have left the Nashville market and are shipping to plants supplying these out-of-state markets.

(3) Milk produced in the Nashville milkshed for consumption as fluid milk in the marketing area is produced in competition with milk produced for manufacturing plants from which various products are sold across state lines. Manufacturing plants in Nashville have cream-buying stations located in the State of Kentucky. Sour cream collected at these stations is shipped to Nashville for manufacturing purposes. In addition, out-of-state supplies of frozen and plastic cream and butter are from time to time purchased and transported to Nashville. Milk produced in the Nashville milkshed is purchased and transported to plants in the State of Kentucky for manufacturing purposes.

(4) Ice cream manufactured in Nashville is sold in the States of Alabama, Kentucky, and Indiana. Bottled fluid milk is sold by Nashville handlers to railroad companies which place it in dining cars and transport and sell it outside the State of Tennessee.

(5) Marketing conditions justify the issuance of a marketing agreement and order regulating the handling of milk in the Nashville, Tennessee, marketing area.

The price paid to producers suppling the Nashville fluid milk market has been insufficient to attrack an adequate supply of pure and wholesome milk. The record indicates producers have shifted from the Nashville market to other markets paying higher prices than the Nashville handlers. Due to the cost involved in making the original inspection of producers entering the Nashville market for the first time, it was necessary, for a period of time, to request such producers to indicate their intention to ship to the Nashville market for a period of at least six months. This procedure was necessary to prevent such producers from shifting to other markets which were offering higher prices.

Further evidence that the price paid to Nashville producers is insufficient to attract an adequate supply is found in the fact that a large number of dairy farmers located in the Nashville milkshed, who are producing milk for sale to nearby manufacturing plants, have not been attracted to the Nashville market. It must be concluded that the differential between the prices paid for milk for manufacturing purposes and prices paid by Nashville handlers has been insufficient to compensate such farmers for the added cost of producing milk for fluid consumption in the Nashville market.

There has been a lack of well-defined and uniform price plan guaranteeing producers equal shares of the market at a reasonable price level and the assurance that the returns will be soundly based upon the fundamental economic conditions in the market rather than primarily on the relatively bargaining strength of producers and handlers. The record indicates that handlers in the market have been unwilling to negotiate pricing and payment grievances with producers. At least two plans of pricing milk to producers, the flat price plan and the base surplus plan, have been followed in the market. Neither of these methods of pricing have contributed to stable marketing by assuring producers uniform and dependable prices consistent with changing economic conditions, or assuring producers direct payment for milk in accordance with the weights, butterfat tests, and uses made thereof. Pricing the milk of producers in accordance with its use, auditing of handler's utilization of milk, and checking weights and tests by an impartial agency under an order will aid in establishing and maintaining the orderly marketing of milk and its products in the Nashville market.

(c) From the evidence it is concluded that the proposed marketing agreement and order, which are hereinafter set forth, and all the terms and conditions thereof, meets the needs of the Nashville market and will tend to effectuate the declared policy of the act. The following findings and conclusions are made with respect to the various provisions of the marketing agreement and order.

(1) *Extent of the marketing area.* The marketing area should be defined to include all the territory within Davidson County, Tennessee, including, but not being limited to, the Cities of Nashville and Belle Meade. The evidence shows that the proposed marketing area includes towns and communities which, together with the Cities of Nashville and Belle Meade, form an integral and compact market in which fluid milk and its byproducts are freely marketed under highly similar conditions. Throughout all the proposed marketing area, Nashville inspected milk or its quality equivalent is required for fluid uses under local health regulations. Nashville handlers distribute milk throughout the proposed area.

(2) *Definitions.* The term "producer" should be defined as any person who produces milk, under a dairy farm inspection permit issued by the appropriate health authority in the marketing area, whose milk conforms to the appropriate health standards for milk for fluid consumption and is received at a fluid milk plant or is diverted to a nonfluid milk plant by a handler. All dairy farms producing milk for fluid consumption in the marketing area must have passed a farm inspection and hold a permit issued by the appropriate health authorities before such milk may be received in a fluid milk plant. Milk produced on such farms may be degraded for high bacteria count or for other reasons and prohibited by the health authorities from being received at a fluid milk plant until such time as proper quality is attained. Any person who produces milk which is so degraded and prohibited from being received at a fluild milk plant should not be considered as a producer during such time that his milk is prohibited from being received at such plant.

The term "handler" should be defined to include any person operating a fluid milk plant in the marketing area who receives producer milk at such plant or who diverts producer milk to any other milk distributing or milk manufacturing plant for his account. The term should be sufficiently broad to include any cooperative association of producers which might divert producer milk for the account of such association. A definition of "handler" is necessary in order to specify what type of processors and distributors are to be subject to regulation. Only operators of plants approved by the appropriate health authorities may process and distribute milk for fluid consumption in the marketing area. The definition is limited to those approved plant operators who receive producer milk. A cooperative association of producers is included, though they might not operate a fluid milk plant, so that in the event any handler receives producer milk in excess of his fluid requirements the association may divert such excess milk to another plant where it may be used in a higher use classifica-

tion than that in which the first handler might otherwise utilize it, or in the event no use can be found for such milk in the Nashville market the association may divert such milk to other outlets. This will promote the efficient utilization of producer milk.

The term "fluid milk plant" should be defined to include the premises and the portion of the building and facilities used in the receipt and processing or packaging of producer milk, all or a portion of which is disposed of from such plant within the delivery period as Class I milk in the marketing area. It should not include any portion of such building or facilities used to receive or process milk, or any milk product, required by the applicable health authority to be kept physically separate from the receiving and processing or packaging of milk for disposition as Class I milk in the marketing area. A definition of a fluid milk plant is included to futher define the type of processors and distributors to be subject to regulation and to clarify the language of the producer and handler definitions and the language of other provisions of the order in which the term fluid milk plant is used. Since any plant receiving, processing, or packaging milk for fluid consumption in the marketing area must be inspected and approved by the appropriate health authorities, the definition is limited to that portion of a handler's plant which is used to receive, process, or package producer milk for fluid consumption in the marketing area. Some discussion was had on the record with respect to the inclusion of a provision which would provide for the receiving of producer milk at a receiving station. The record indicates that there are no receiving stations serving the Nashville market. Specific language covering such stations should not be included except insofar as any such station might qualify under the term fluid milk plant as defined herein. Any milk manufacturing, processing, or bottling plant not qualified under such a definition is concluded to be a "nonfluid milk plant." The term nonfluid milk plant is proposed in lieu of, and expresses the intent of, the proposal for a definition of nonhandler made by both producers and handlers.

The term "producer-handler" should include any person who is both a producer and a handler, but who receives no milk from other producers. The term is defined for facility in drafting the subsequent provisions of the order. Although the record indicates that there are no producer-handlers operating in the marketing area at the present time, it is concluded that should a producer-handler begin operation in the market he should be exempt from all responsibilities under the order except that such a person should be required to make reports to the market administrator at such time and in such manner as the market administrator deems necessary.

The handlers' proposal to include a definition of "frozen cream" should not be adopted. This proposal failed to contain any limitation with respect to the location of the cold storage warehouses in which the cream is to be held. Without such a limitation the market administrator could be required to travel great distances in order to verify the fact of storage at the specified temperatures.

The terms "act," "person," "delivery period," "Secretary," "Department of Agriculture," "cooperative association," "other source milk," and "producer milk" should be defined to shorten the language in the subsequent sections of the order. These terms are common to Federal milk marketing orders issued pursuant to the act. No controversy developed at the hearing regarding the definitions of "act," "person," and "delivery period." There was likewise no objection to the inclusion of definitions of the terms "Secretary," "Department of Agriculture," "cooperative association," "other source milk," and "producer milk," but certain suggestions were made regarding the language to be used in these definitions. These suggestions have been adopted.

(3) *Classification of milk.* The classification of milk should be as follows: Class I milk should include all skim milk and butterfat disposed of in fluid form as milk, skim milk, buttermilk, flavored milk, and flavored milk drinks, and all skim milk and butterfat not specifically accounted for as Class II milk and Class III milk. Class II milk shall include all skim milk and butterfat disposed of in the form of cream, aerated cream, eggnog, and any other cream product, except ice cream mix, disposed of in fluid form. Class III milk should include all skim milk and butterfat used to produce any item other than those specified in Class I milk and Class II milk, inventory variations, disposed of for animal feed, actual plant shrinkage of skim milk, and butterfat received in producer milk (but not in excess of 3 percent of such receipts of skim milk and butterfat, respectively) and actual plant shrinkage of skim milk and butterfat, respectively, in other source milk received.

Milk, skim milk, buttermilk, flavored milk, and flavored milk drinks sold in the marketing area must be made from approved Grade A milk. The present supply of producer milk is inadequate to meet the minimum requirements for Grade A milk in the marketing area. These items are disposed of in fluid form through the same retail and wholesale channels as bottled fluid milk and are used principally as a beverage. The evidence supporting the classification of skim milk and butterfat disposed of in the form of fluid milk as Class I milk is undisputed. The physical characteristics, purposes, values, and uses of skim milk, buttermilk, flavored milk, and flavored milk drinks are more nearly similar to those of fluid milk than to the products to be classified as Class II and Class III milk. The classification of any of these items in a lower use class would not be in the public interest in that this would necessitate a higher minimum price for the remaining items in Class I in order to return a blend price to producers which is needed to insure a sufficient quantity of pure and wholesome milk for the market.

Fluid cream and cream products, except ice cream mix, disposed of in fluid form, should be classified as Class II milk in order to price the milk from which such products are produced in line with the cost of importing fluid cream from outside sources. Fluid cream has historically been a lower priced product, on an equivalent basis, than has been milk for bottling purposes. Aerated cream, eggnog, and other cream products, except ice cream mix, disposed of in fluid form are a substitute for cream and their sales replace sales of fluid cream. Fluid cream and cream products, except ice cream mix, must likewise be produced from approved Grade A milk.

The handlers proposed a Class III use for skim milk and butterfat used to produce products other than those specified in Class I milk and Class II milk except that under their proposal any skim milk or butterfat used in the manufacture of butter, butter oil, casein, lactose, condensed or dry buttermilk, whey, and animal feed would be classified as Class IV milk. The record indicates that the Nashville market is a deficit area in that the quantity of producer milk is insufficient to meet the demand for Grade A milk. All milk other than that used for fluid purposes (Class I milk and Class II milk) should be priced at the paying price of local condenseries for milk for manufacturing purposes with which Class III milk is in direct competition and the record fails to contain any justification for the pricing of Grade A producer milk at a price lower than that paid for milk by milk manufacturing plants.

While the producers proposed to limit shrinkage allowed in the lowest use class to 1 percent, the evidence indicates that the actual plant shrinkage for fluid milk plants in the marketing area historically has been in excess of 1 percent. Handlers contend that the plant shrinkage allowance should be 3 percent of the total receipts of skim milk and butterfat from all sources. It is concluded that the allowable plant shrinkage on producer milk should be limited to 3 percent of receipts of skim milk and butterfat, respectively, from producers. No limit is proposed for the shrinkage on other source milk since such milk is deducted from the lowest available use classification in the allocation provision.

When producer milk and other source milk are utilized in the same plant it is not administratively feasible to segregate the actual plant shrinkage on producer milk. Consequently, when producer milk is utilized as milk, skim milk, or cream in conjunction with other source milk, the shrinkage of skim milk and butterfat, respectively, allocated to producer milk and other source milk should be computed pro rata according to the proportions of the volumes of skim milk and butterfat, respectively, received from such sources to their totals.

Handlers proposed that shrinkage in excess of allowable shrinkage be pro rated between the various classes of utilization in proportion to the actual utilization by such handler in such classes. Such a method of classifying excess shrinkage does not tend to encourage efficient plant operation and would not create equity in the cost of milk between handlers when the utilization of milk in the various classes varies widely between

handlers. Any excess shrinkage over and above 3 percent of the total receipts of skim milk and butterfat, respectively, in milk received from producers should, therefore, be classified as Class I milk in order to encourage efficient plant operation and create equity between handlers.

In establishing the classification of milk the responsibility should be placed upon the handler, who first receives milk from producers, to account for all skim milk and butterfat received at a fluid milk plant and to prove to the market administrator that such skim milk and butterfat should not be classified as Class I milk. Any skim milk or butterfat so classified in one class should be reclassified if used or reused by such handler or by another handler in another class.

The only practical means of administering the regulation and assigning responsibility for correct classification is to consider all skim milk and butterfat as Class I milk unless the handler who first receives such skim milk or butterfat proves to the market administrator that it should be classified otherwise. The handler who first receives milk from producers can control the disposition of such milk and maintain the records necessary to prove the utilization reported to the market administrator.

In fluid milk markets producer milk is often stored in some form for later use in a class other than that in which it was originally classified. The interest of both producers and handlers will be protected by requiring adjustments in the payments made for such milk in accordance with its ultimate use. There was no controversy on the record with respect to this procedure, except that both producers and handlers proposed that such adjustments also be followed in cases of transfers of milk from a handler to a nonhandler. It is not practical for the market administrator to make the complete audit of nonhandlers' plants which would be necessary to verify the specific utilization by nonhandlers of milk transferred to them by handlers. Moreover, such adjustments based upon ultimate use by the nonhandlers would be inconsistent with the proposed method of classifying such transfers, to plants of nonhandlers located within a radius of 85 miles from Nashville, on the basis of a utilization mutually agreed upon by both the buyer and the seller, provided that such buyer had actually used not less than an equivalent amount of milk in such agreed class.

(4) *Transfers.* Provisions should be included in the order covering the classification of skim milk and butterfat which is transferred from a fluid milk plant to another fluid milk plant, a producer-handler, or a nonfluid milk plant.

In the case of transfers to a fluid milk plant, except to such a plant operated by a producer-handler, provision should be made for the classification of such milk on the basis of signed statements covering the agreed utilization of such milk, provided that the buyer actually has used an equivalent amount of skim milk and butterfat in the class indicated in such statement. The evidence with respect to the classification of milk transferred in this manner was undisputed. In the case where other source milk is received in the transferee-plant, the other source milk must be eliminated through the allocation provisions before the final classification of the transferred milk can be ascertained. This is necessary for the protection and proper classification of producer milk, and is in accord with the method of allocating producer milk proposed under the allocation provisions.

Skim milk and butterfat transferred to a producer-handler in the form of any Class I milk item should be classified as Class I milk, and skim milk and butterfat so transferred in the form of any Class II milk item should be classified as Class II milk. Although there are no producer-handlers operating in the market at present, it is believed that should one begin operation his utilization would be almost entirely Class I milk and Class II milk. Under such circumstances, it is not necessary to provide for the classification of any such transfers in a lower class use.

Skim milk and butterfat transferred to a nonfluid milk plant should be classified as Class I milk when transferred in the form of any Class I milk item and as Class II milk when transferred in the form of any Class II milk item, except that when such transfers are made to a nonfluid milk plant located less than 85 miles from the City Hall in Nashville, the classification should be on the basis of claimed utilization, provided that (i) the buyer maintains books and records showing the utilization of all skim milk and butterfat which are made available if requested by the market administrator and (ii) such buyer has utilized not less than an equivalent amount of skim milk and butterfat in such claimed use. The handlers objected to any distance limitation beyond which milk transferred would not be classified on the basis of actual utilization. The record indicates the impracticability of the market administrator attempting to verify actual utilization of such transfers beyond a reasonable distance. Moreover, there are ample outlets for any possible surpluses of producer milk within the proposed 85 mile zone.

(5) *Allocation of classified skim milk and butterfat.* In the allocation of skim milk and butterfat, producer milk should not be displaced by other source milk.

The recommended definition of other source milk includes milk which is received under an emergency permit issued by the appropriate health authorities in the marketing area for the receipt of such milk. The record indicates that such permits are issued only when sufficient "graded fresh" milk to supply the area is not being produced locally. The Nashville Health Department takes the position that reconstituted milk is definitely a substitute for fresh milk and is not to be desired when and if fresh milk can be obtained from local "Grade A" supplies. As graded production increases locally, importation of skim milk and cream will be decreased correspondingly and all distributors have been so advised by the Health Department.

The proposed provisions of the order provide for the determination of the utilization of producer milk for each handler by subtracting the receipts of skim milk and butterfat in other source milk from the volume of skim milk and butterfat, respectively, in the lowest-priced available class, and then subtracting transfers from other handlers. This procedure is consistent with the Health Department's position and will be instrumental in encouraging a larger volume of producer milk by guaranteeing producers the classification of their milk in the highest-price available class.

(6) *Class prices.* (i) Class prices should be based on prices paid for milk used for manufacturing purposes.

Historically, prices paid for milk used for fluid purposes have been closely related to prices paid for milk used for manufacturing purposes. Production and marketing of milk for each type of manufacturing outlet are subject to many of the same economic factors. Since the market for most manufactured products is country-wide, prices of manufactured dairy products reflect, to a large extent, changes in general economic conditions affecting the supply of and demand for milk. For these reasons fluid milk markets have long used butter, powder, and cheese prices, or the prices paid by condenseries with differentials over these basic or manufacturing prices to establish fluid milk prices. These differentials are needed to cover the cost of meeting quality requirements in the production of market milk and to furnish the necessary incentive to get such milk produced.

It is concluded that the basic formula price to be used in establishing Class I and Class II prices for milk of 4.0 percent butterfat content should be the highest of the following: the "paying" prices of 10 local manufacturing plants; a formula price based upon the open market prices of butter and nonfat dry milk solids; a formula price based upon the open market prices of butter and cheese; or the "paying" prices of 18 condenseries, located in Wisconsin and Michigan, for milk of 3.5 percent butterfat content adjusted by a butterfat differential.

Basic formula prices similar to those proposed herein (except the paying price of 10 local manufacturing plants) are contained in the Federal milk order issued pursuant to the act for the Chicago marketing area. The record shows that substantial quantities of emergency milk (principally condensed skim milk and cream) are imported from the Chicago milkhead. Such emergency supplies are commingled with producer milk and sold in bottled form in competition with producer milk. Under these circumstances, the basic formula prices should reflect factors which influence the prices paid by Nashville handlers for such emergency supplies.

Both producers and handlers proposed the use of prices paid by local manufacturing plants, a formula price based upon the open market price of butter and nonfat dry milk solids, and a formula price based upon the open market prices of butter and cheese in determining the price of Class I milk and Class II milk. Handlers objected to the use of the paying prices of the 18 condenseries in the basic formula price. The inclusion of the 18 condenseries will provide a broader base which reflects an additional manufacturing value, and is consistent with

the provisions of the marketing order for the Chicago market from which Nashville draws substantial quantities of emergency supplies.

The handlers offered testimony in favor of the averaging of the formulas for the preceding delivery period as a method of computing the basic price for the current delivery period. The record does not indicate that the averaging of the formulas would give proper weight to the price of each manufactured product included in the formulas. Moreover, milk produced for manufacturing purposes may be shifted readily from one outlet to another depending upon the relative price prevailing for such outlets. The formula prices for the preceding delivery period should not be used since such a procedure would have the effect of lagging seasonal changes in prices to producers and handlers which are reflected in the basic price.

(ii) The prices that will give milk and its products a purchasing power equivalent to their purchasing power during the base period as determined pursuant to section 2 and section 8e of the act are not reasonable in view of the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk and its products in the proposed marketing area, and the prices contained in the proposed marketing agreement and order will reflect such factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest.

The consumption of milk in the Nashville marketing area is at a relatively high level. General economic conditions and business activity in Nashville indicate a continued good demand for milk and milk products. The level of production of Grade A producer milk has been insufficient to meet the needs of Class I milk and Class II milk in the Nashville market. It has been necessary for handlers to supplement their supplies of producer milk in Class I milk and Class II milk with substantial quantities from emergency sources.

The cost of feeds, labor, supplies, and materials incurred by Nashville producers in the production of milk shows an upward trend during 1946-47. Farmers producing milk for fluid purposes must use feed, labor, supplies, and materials more extensively to maintain production at a more uniform level than is required of farmers producing milk for manufacturing purposes. Consequently, the increases in the prices which have taken place in these items affect the fluid milk producers more than dairy farmers supplying manufacturing plants. In addition, a substantial investment is required to provide facilities to meet the requirements for the production of fluid milk for the Nashville market. Furthermore, the day to day expenses of maintaining such equipment, cooling and caring for milk, and sterilizing and caring for equipment are substantially greater than those required for milk for manufacturing purposes.

To reflect these additional costs in the production of Grade A quality milk and to provide the necessary incentive for the production of a sufficient quantity of pure and wholesome milk for the marketing area, the prices of Class I milk and Class II milk must be established at a higher level than the price of milk produced for manufacturing outlets. This should be accomplished by adding fixed differentials to the basic formula price for Class I milk and Class II milk. Such differentials should be $1.25 per hundredweight for Class I milk and $.75 per hundredweight for Class II. The pricing of Class I milk 50 cents per hundredweight higher than Class II milk will tend to reflect the historical price relationship between bottle milk and fluid cream.

While the basic formula price plus the proposed differentials for Class I and Class II milk, together with the proposed price for Class III milk, will normally return to producers a minimum price for milk which will reflect the economic factors prescribed by the act and assure a sufficient supply of pure and wholesome milk for the marketing area and be in the public interest, there is a distinct possibility that the basic formula price plus the differentials may result in a wholly inadequate price for the coming fall and winter season. The abnormal postward marketing conditions have created such uncertainties with respect to the prices which will result from the operation of the pricing formula that producers of milk for the Nashville market will be reluctant to maintain or expand the production of milk during the fall and winter season, when reduction is needed most, unless they are assured that the price of milk will not go below the price required to reflect the standards prescribed in the act. There has been a definite upward trend in the cost of producing milk, and there is no likelihood that such costs will decline in the near future. Moreover, the shortage of producer milk during the fall and winter seasons indicates the need for a price incentive to encourage the increased fall production of Grade A milk. This incentive should be provided by establishing a level of floor prices for the fall and winter months which will be enough higher than the April, May, and June prices to emphasize the seasonal factor in pricing milk. By assuring producers of at least these prices, they will be more inclined to undergo the additional expense required for the care and feeding of spring freshened cows through the fall months and to add fall freshening cows to their herds.

The minimum prices below which the Class I and Class II prices should not be permitted to decline during the coming fall and winter months are the following: For the delivery period from the effective date hereof to and including December, 1947, the price for Class I milk should not be less than $5.35, and for the delivery periods of January and February, 1948, the price for Class I milk should not be less than the December, 1947, price less 40 cents. For the delivery periods from the effective date hereof to and including December, 1947, the price for Class II milk should not be less than $4.85, and for the delivery periods of January and February, 1948, the price for Class II milk should not be less than the December, 1947, price less 40 cents. Compliance with the standards prescribed in the act will require the payment to producers of not less than these Class I and Class II floor prices for the periods indicated.

The price for Class III milk should be the same as the paying price of local condenseries for milk used for manufacturing purposes. The items included in Class III need not be made from graded milk. Hence, the producer milk going into these items must compete with ungraded milk.

The purchasing power of milk during the base period, August, 1909–July, 1914, cannot be satisfactorily determined from available statistics of the Department of Agriculture. However, the purchasing power of milk can be satisfactorily determined from available statistics of the Department of Agriculture for the period, August, 1922–July, 1929.

It is estimated that a blend price of $5.42 per hundredweight for milk of 4.0 percent butterfat content would have resulted had the formulas and prices proposed herein been in effect during the 12 months ending May 31, 1947. During such 12 month period the parity price, on the basis of milk of similar test, averaged $3.78, calculated on the basis of the purchasing power of milk for the period August, 1922–July, 1929. The parity price for 4.0 percent milk in May, 1947, was $4.10, as compared with an estimated blend price of $4.60 for 4.0 percent milk which would have resulted if the proposed marketing agreement and order had been in effect for the month of May, 1947. To the extent that the recommended class prices will result in blend prices exceeding such parity level, they are fully justified on the basis of evidence concerning the price and supplies of feeds and other economic conditions affecting market supplies and demand for milk and to such extent the parity level is not reasonable.

The estimated blend prices referred to above compare with the prevailing prices in the market as follows: The average price (flat price) paid to producers for all milk of 4.0 percent butterfat content during the 12 month period preceding June, 1947, was $4.76 per hundredweight. The price paid during the month of May, 1947, was $4.55.

The prices on milk with reference to a butterfat content of 4.0 percent follows the custom of the market and is consistent with the proposal of both producers and handlers.

(iii) The price computed for each class on the basis of milk containing 4.0 percent butterfat should be adjusted to reflect the weighted average butterfat content of the several products classified in the respective classes. Such differential for Class III milk should be on the basis of the value of 92-score butter in the Chicago market plus 20 percent. This differential is in line with the general level of manufacturing values. With respect to Class II milk, such differential should be on the basis of the value of 92-score butter in the Chicago market plus 35 percent. Such differential brings the price of fluid cream in line with the price that Nashville handlers would receive for any cream sold in the principal cream markets. With regard to Class

I milk, such differential should be on the basis of the value of 92-score butter in the Chicago market plus 40 percent. Such differential reflects the higher-valued use of butterfat in Class I milk.

(iv) The proposal for a special price for Class I milk disposed of by handlers to markets outside of the marketing area should not be adopted while the Nashville market is so short of producer milk that the importation of substantial quantities of emergency milk is necessary to meet fluid milk requirements in the marketing area.

(v) The proposal for the inclusion of the emergency price provision should not be adopted. Such a provision was included in Federal milk marketing orders issued during the war period to cover certain emergencies which no longer exist.

(7) *Payments to producers.* Provision should be made for a market-wide type of pool in order that all producers delivering milk to all handlers may receive a uniform price for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered. This method of paying producers will require a producer-settlement fund for making adjustments in payments, as among handlers, to the end that the total sums paid by each handler shall equal the value of the milk received by him at the prices fixed in the proposed marketing agreement and order. The evidence in support of the market-wide pool method of payment was not disputed.

In the computation of the value of producer milk, provision should be made for the inclusion in such value, the value of milk classified in excess of reported receipts from producers, handlers, and other sources. This provision is common to orders issued pursuant to the act and is necessary to cover discrepancies between the reported and actual weights and tests of milk received from producers.

Although the uniform price is computed only once a month, provision should be made for payment to producers semi-monthly. Both handlers and producers proposed that an advance payment covering the first 15 days of the delivery period should be made on or before the last day of the delivery period. Producers have customarily been paid every 2 weeks and it is concluded that this practice should be continued. The record indicates that the mid-delivery period payment should not be at a fixed price or the rate of the uniform price for the preceding period since these rates may require a handler to overpay a producer. Such payment at the rate of 75 percent of the uniform price for the preceding delivery period will avoid such overpayments. The final payment for each delivery period should be made on or before the 15th day after the end of the delivery period. Handlers proposed a later date for final payment. However, payment on the 15th day after the delivery period will, in effect, result in producers extending credit to handlers for milk for a period of from 2 weeks to a month. Producers should not be required to wait a longer period for payment. All dates covering reports of handlers, computation and announcement of uniform prices, and payments to and out of the producer-settlement fund have been established to enable such payments. A reasonably adequate time is allowed handlers to comply with these provisions.

All payments made direct to producers or through the producer-settlement fund should be adjusted for errors made in such payments for preceding delivery periods. The adjustment of errors in making payments should not be limited to 90 days from the date of any such error as suggested by the handlers. Such a limitation is impracticable in that it would not allow sufficient time for auditing records and the settlement of disputed accounts.

The market administrator in making payments to any handler from the producer-settlement fund should offset such payments by the amount of payments due from such handler. This is sound business practice. Without this provision, the market administrator might be required to make payments to a handler who may have obtained money from the producer-settlement fund by filing fraudulent reports or who owes money to the producer-settlement fund but who is financially unable to make full payment of all of his debts.

(8) *Administrative assessment.* Each handler should be required to pay to the market administrator, as such handler's pro rata share of the expenses necessarily incurred by the market administrator, 4 cents per hundredweight, or such lesser sum as may be prescribed by the Secretary, on all skim milk and butterfat received by a handler in a fluid milk plant.

The market administrator is required to verify the disposition of all milk received whether producer milk or other source milk, and other source milk should bear its pro rata share of the administrative cost. Substantial quantities of emergency milk are received by handlers in the market and such a charge will apportion the expenses of administration more equitably between handlers. Both handlers and producers recognize that the market administrator should have the necessary funds to enable him to administer properly the terms of the order. However, handlers contended that a maximum assessment of 2 cents per hundredweight should be sufficient. In view of the volume of skim milk and butterfat on which such rate of assessment would apply, a maximum rate of 4 cents per hundredweight should be adopted in order to guarantee sufficient funds for the proper and efficient administration of the order. In the event a lesser amount proves to be sufficient for such administration, provision should be made to enable the Secretary to reduce the assessment accordingly.

Handlers proposed that the accounts of the market administrator be audited annually by a licensed auditing firm in the State of Tennessee. Since the United States Department of Agriculture maintains a staff of auditors for such purpose and since the adoption of such proposal would increase the cost of administering the order, it is concluded that such a provision is not warranted.

(9) *Deductions for marketing services.* Provision should be made for market information to producers and for the verification of weights, sampling, and testing of milk purchased from producers for whom such services are not being rendered by a cooperative association qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act." The deductions for these services from payments to producers should be at the rate of 6 cents per hundredweight, or such lesser rate as may be determined by the Secretary. Such deductions were proposed by the producer association. Handlers contended that a maximum of 3 cents per hundredweight should provide sufficient funds to finance such services for producers who are not members of the association since the services performed for nonmember producers would not be as comprehensive as those presently performed by the cooperative association for its members. The majority of producers are members of the association. In view of the relatively small number of nonmembers for which such services would be performed, the cost of performing such services for nonmembers will approximate 6 cents per hundredweight. If it should develop that the cost of such service is less than 6 cents per hundredweight, provision should be made for a smaller deduction. In the event any qualified cooperative association of producers is determined to be performing such services for its members, handlers would be required to pay to the cooperative association such deductions as are authorized by the members of the association.

(10) *Administrative provisions.* The marketing agreement and order should provide for other general administrative provisions which are common to all orders and which are necessary for proper and efficient administration of the order. These provisions provide for the selection of a market administrator, define his powers and duties, prescribe the information to be reported by handlers each month, set forth the rules to be followed by the market administrator in making computations required by the order, and provide a plan for liquidation of the order in the event of its suspension or termination.

The principal issue raised with regard to these provisions was the handlers' objection to the powers granted the market administrator to make rules and regulations to effectuate the provisions of the order. The making of rules and regulations by the market administrator was supported by the evidence, and such a provision is specifically provided for in section 8c (7) (C) (ii) of the Agricultural Marketing Agreement Act of 1937, as amended, and the proposed language is substantially the same as the statutory language. Any rules or regulations as may be issued by the market administrator must be issued in accordance with all applicable legal requirements.

All other objections raised by either the handlers or producers with regard to these provisions dealt with the language thereof, and they have been worded in the proposed marketing agreement and order so as to eliminate such objections.

(d) The proposed marketing order will regulate the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial or commercial activity specified in the proposed marketing agreement upon which the hearing has been held.

Rulings on proposed findings and conclusions. Briefs were filed on behalf of the Nashville Milk Producers, Inc., and all handlers who would be subject to the proposed marketing agreement and order. Every point covered in the briefs was carefully considered, along with the evidence in the record, in making the findings and reaching the conclusions hereinbefore set forth. To the extent that such proposed findings and conclusions are inconsistent with the findings and conclusions contained herein the request to make such findings or to reach such conclusions are denied on the basis of the facts found and stated in connection with the conclusions in this recommended decision.

Recommended marketing agreement and order. The following order is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this recommended decision because the regulatory provisions thereof would be the same as those contained in the recommended order.

§ 978.1 *Definitions.* The following terms shall have the following meanings:

(a) "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C., 601 et seq.).

(b) "Secretary" means the Secretary of Agriculture or any officer or employee of the United States authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

(c) "Department of Agriculture" means the United States Department of Agriculture or any other Federal agency as may be authorized by act of Congress or by executive order to perform the price reporting functions of the United States Department of Agriculture.

(d) "Person" means any individual, partnership, corporation, association, or any other business unit.

(e) "Nashville, Tennessee, marketing area" hereinafter called the "marketing area" means all the territory within Davidson County, Tennessee, including but not being limited to the Cities of Nashville and Belle Meade.

(f) "Cooperative association" means any cooperative marketing association of producers which the Secretary determines to be qualified pursuant to the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," and is authorized by its members to make collective sales or to market milk or its products for the producers thereof.

(g) "Producer-handler" means any person who is both a producer and a handler who receives no milk from other producers.

(h) "Delivery period" means a calendar month, or the portion thereof during which this order is in effect.

(i) "Fluid milk plant" means the premises and the portions of the building and facilities used in the receipt and processing or packaging of producer milk, all, or a portion, of which is disposed of from such plant within the delivery period as Class I milk in the marketing area; but not including any portion of such building or facilities used for receiving or processing milk or any milk product required by the appropriate health authority in the marketing area to be kept physically separate from the receiving and processing or packaging of milk for disposition as Class I milk in the marketing area.

(j) "Producer" means any person who produces milk under a dairy farm inspection permit issued by the appropriate health authority in the marketing area, and whose milk conforms to the appropriate health standards for milk for fluid consumption, which milk is: (i) received at a fluid milk plant, or (ii) diverted from a fluid milk plant to any milk distributing or milk manufacturing plant: *Provided*, That any such milk so diverted shall be deemed to have been received by the handler for whose account it was diverted.

(k) "Handler" means (i) any person who operates a fluid milk plant, or (ii) any cooperative association of producers with respect to producer milk diverted by it from a fluid milk plant to any milk distributing or milk manufacturing plant for the account of such association.

(l) "Nonfluid milk plant" means any milk manufacturing, processing, or bottling plant other than a fluid milk plant described in paragraph (i) of this section.

(m) "Other source milk" means all skim milk and butterfat in any form received from a source other than a producer or handler, and all skim milk and butterfat transferred in any form by a producer-handler to any handler.

(n) "Producer milk" means milk produced by one or more producers.

§ 978.2 *Market administrator*—(a) *Designation.* The agency for the administration hereof shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

(b) *Powers.* The market administrator shall have the following powers with respect to this order:

(1) To administer its terms and provisions;

(2) To receive, investigate, and report to the Secretary complaints of violations;

(3) To make rules and regulations to effectuate its terms and provisions; and

(4) To recommend amendments to the Secretary.

(c) *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this order, including, but not limited to, the following:

(1) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(2) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(3) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(4) Pay, out of the funds provided by § 978.9: (i) the cost of his bond and of the bonds of his employees, (ii) his own compensation, and (iii) all other expenses, except those incurred under § 978.10, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(5) Keep such books and records as will clearly reflect the transactions provided for herein, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(6) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 5 days after the day upon which he is required to perform such act, has not made (i) reports pursuant to § 978.3 (a), or (ii) payments pursuant to § 978.8;

(7) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(8) Prepare and make available for the benefit of producers, consumers, and handlers, general statistics and information concerning the operation hereof as are necessary and essential to the proper functioning of this marketing order;

(9) Verify all reports and payments by each handler by audit, if necessary, of such handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends;

(10) Publicly announce the prices and butterfat differentials determined for each delivery period as follows: (i) on or before the 6th day after the end of such delivery period, the prices and butterfat differentials for each class computed pursuant to § 978.5: and (ii) on or before the 10th day after the end of such delivery period, the uniform price, computed pursuant to § 978.7 (b), and the butterfat differentials to be paid pursuant to § 978.8 (f).

§ 978.3 *Reports, records, and facilities*—(a) *Delivery period reports of receipts and utilization.* On or before the 6th day after the end of each delivery period each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator:

(1) The quantities of skim milk and butterfat contained in (i) all receipts at

his fluid milk plant(s) within such delivery period of (a) producer milk, (b) milk, skim milk, cream, and milk products from other handlers, and (c) other source milk; and (ii) milk diverted pursuant to § 978.1 (j) (2); and

(2) The utilization of all skim milk and butterfat required to be reported under subparagraph (1) of this paragraph.

(b) *Other reports.* Each handler shall report to the market administrator, in the detail and on forms prescribed by the market administrator as follows, except that each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may request:

(1) On or before the 20th day after the end of each delivery period, if requested by the market administrator, his producer payroll for such delivery period which shall show for each producer (i) the total pounds of milk delivered with the average butterfat test thereof, and (ii) the net amount of such handler's payment to such producer together with the price, deductions, and charges involved.

(2) On or before the first day other source milk is received his intention to receive such milk, and on or before the last day such milk is received his intention to discontinue such receipts.

(c) *Records and facilities.* Each handler shall keep adequate records of receipts and utilization of skim milk and butterfat and shall, during the usual hours of business, make available to the market administrator or his representative such records and facilities as will enable the market administrator to (1) verify the receipts and utilization of all skim milk and butterfat and, in case of errors or omissions, ascertain the correct figures; (2) weigh, sample, and test for butterfat content all milk and milk products handled; (3) verify payments to producers; and (4) make such examinations of operations, equipment, and facilities, as the market administrator deems necessary.

§ 978.4 *Classification of milk*—(a) *Basis of classification.* All skim milk (including reconstituted skim milk) and butterfat contained in (i) milk, skim milk, cream, and milk products received at a fluid milk plant and (ii) producer milk diverted pursuant to § 978.1 (j) (ii) shall be classified by the market administrator in the classes set forth in paragraph (b) of this section.

(b) *Classes of utilization.* Subject to the conditions set forth in paragraphs (c), (d), and (e) of this section, the classes of utilization shall be as follows:

(1) Class I milk shall be all skim milk and butterfat (i) disposed of in fluid form as milk, skim milk, buttermilk, flavored milk, and flavored milk drinks, and (ii) not specifically accounted for as Class II milk or Class III milk.

(2) Class II milk shall be all skim milk and butterfat disposed of in the form of cream, aerated cream, eggnog, and any other cream product, except ice cream mix, disposed of in fluid form.

(3) Class III milk shall be all skim milk and butterfat: (i) used to produce any item other than those specified in subparagraphs (1) and (2) of this paragraph; (ii) in inventory variations; (iii) disposed of for livestock feed; (iv) in actual plant shrinkage of skim milk and butterfat received in producer milk, but not in excess of 3 percent of such receipts of skim milk and butterfat, respectively, hereinafter known as allowable shrinkage; (v) in actual plant shrinkage of skim milk and butterfat, respectively, in other source milk received: *Provided,* That if producer milk is utilized as milk, skim milk, or cream in conjunction with other source milk the shrinkage of skim milk and butterfat, respectively, allocated to producer milk and other source milk shall be computed pro rata according to the proportions of the volumes of skim milk and butterfat, respectively, received from such sources to their total.

(c) *Responsibility of handlers and reclassification of milk.* (1) All skim milk and butterfat shall be classified as Class I milk unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified in another class.

(2) Any skim milk or butterfat classified (except that transferred to a producer-handler) in one class shall be reclassified if used or reused by such handler or by another handler in another class.

(d) *Transfers.* Skim milk or butterfat disposed of by a handler either by transfer or diversion shall be classified:

(1) As Class I milk if transferred or diverted in the form of any item specified in paragraph (b) (1) of this section and as Class II milk if so disposed of in the form of any item specified in paragraph (b) (2) of this section to a fluid milk plant of another handler (except a producer-handler), unless utilization in another class is mutually indicated in writing to the market administrator by both handlers on or before the 6th day after the end of the delivery period within which such transaction occurred: *Provided,* That skim milk or butterfat so assigned to a particular class shall be limited to the amount thereof remaining in such class in the plant of the transferee-handler after the subtraction of other source milk pursuant to paragraph (f) of this section, and any excess of such skim milk or butterfat, respectively, shall be assigned in series beginning with the next highest-priced available utilization.

(2) As Class I milk if transferred or diverted in the form of any item specified in paragraph (b) (1) of this section and as Class II milk if so disposed of in the form of any item specified in paragraph (b) (2) of this section to a producer-handler.

(3) As Class I milk if transferred or diverted in the form of any item specified in paragraph (b) (1) of this section and as Class II milk if so disposed of in the form of any item specified in paragraph (b) (2) of this section to a nonfluid milk plant located less than 85 miles from the City Hall at Nashville, Tennessee, by the shortest highway distance as determined by the market administrator, unless (i) the handler claims another class on the basis of a utilization mutually indicated in writing to the market administrator by both the operator of the nonfluid milk plant and the handler on or before the 6th day after the end of the delivery period within which such transaction occurred, (ii) the operator of the nonfluid milk plant maintains books and records showing the utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification, and (iii) not less than an equivalent amount of skim milk and butterfat was actually utilized in such plant in the use indicated in such statement: *Provided,* That if upon inspection of the records of such plant it is found that an equivalent amount of skim milk and butterfat was not actually used in such indicated use the remaining pounds shall be classified on the basis of the next highest-priced available use in accordance with the classes set forth in paragraph (b) of this section.

(4) As Class I milk if transferred or diverted in the form of any item specified in paragraph (b) (1) of this section and as Class II milk if so disposed of in the form of any item specified in paragraph (b) (2) of this section to a nonfluid milk plant located 85 miles or more from the City Hall in Nashville, Tennessee, by the shortest highway distance as determined by the market administrator.

(e) *Computation of skim milk and butterfat in each class.* For each delivery period, the market administrator shall correct for mathematical and other obvious errors the delivery period report submitted by each handler and compute the total pounds of skim milk and butterfat, respectively, in Class I milk, Class II milk, and Class III milk for such handler.

(f) *Allocation of skim milk and butterfat classified.* (1) The pounds of skim milk remaining in each class after making the following computations for each handler for each delivery period shall be the pounds in such class allocated to producer milk received by such handler:

(i) Subtract allowable shrinkage of skim milk from the total pounds of skim milk in Class III milk;

(ii) Subtract from the pounds of skim milk remaining in each class, in series beginning with the lowest-priced available use, the pounds of skim milk in other source milk;

(iii) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received from other handlers and assigned to such class pursuant to paragraph (d) (1) of this section;

(iv) Add to the pounds of skim milk remaining in Class III milk the pounds of skim milk subtracted pursuant to subdivision (i) of this subparagraph; or if the pounds of skim milk remaining in all classes exceeds the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class, in series beginning with the lowest-priced available use.

(2) Allocate the pounds of butterfat in each class to producer milk in the same manner prescribed for skim milk in subparagraph (1) of this paragraph.

(3) Add the pounds of skim milk and the pounds of butterfat allocated to producer milk in each class, respectively, as computed pursuant to subparagraphs (1) and (2) of this paragraph, and determine the percentage of butterfat in each class.

§ 978.5 *Minimum prices*—(a) *Basic formula price.* The basic formula price per hundredweight (computed to the nearest tenth of a cent) to be used in determining the price for Class I milk and Class II milk pursuant to paragraph (b) of this section shall be highest of the prices per hundredweight for milk of 4.0 percent butterfat content computed pursuant to subparagraph (1), (2), or (3) of this paragraph, or paragraph (b) (3) of this section.

(1) To the arithmetical average of the basic (or field) prices reported to have been paid or to be paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture on or before the 6th day after the end of the delivery period by the companies listed below:

Companies and Location

Borden Co., Black Creek, Wis.
Borden Co., Greenville, Wis.
Borden Co., Mt. Pleasant, Mich.
Borden Co., New London, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Jefferson, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Sparta, Mich.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

add an amount computed by multiplying the butterfat differential computed pursuant to § 978.8 (f) by 5.

(2) The price per hundredweight computed as follows:

(i) Multiply by 6 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period;

(ii) Add an amount equal to 2.4 times the arithmetical average of the weekly prevailing price per pound of "Twins" during the delivery period on the Wisconsin Cheese Exchange at Plymouth, Wisconsin: *Provided*, That if the price of "Twins" is not quoted on such Exchange, the weekly prevailing price per pound of "Cheddars" shall be used; and

(iii) Divide by 7, add 30 percent thereof, and then multiply by 4.

(3) The price per hundredweight computed as follows:

Multiply by 4.0 the arithmetical average of daily wholesale prices per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, add 20 percent thereof, and add to such sum 3¾ cents for each full ½ cent that the arithmetical average of carlot prices per pound of nonfat dry milk solids (not including that specifically designated animal feed) spray and roller process, f. o. b. Chicago area manufacturing plants, as reported by the Department of Agriculture during the delivery period, is above 5 cents: *Provided*, That if such f. o. b. manufacturing plant prices of nonfat dry milk solids are not reported there shall be used for the purpose of such computation the arithmetical average of the carlot prices of nonfat dry milk solids delivered at Chicago, Illinois, as reported weekly by the Department of Agriculture during the delivery period; and in the latter event the "5 cents" shall be increased by 1 cent.

(b) *Class prices.* Subject to the provisions of paragraph (c) of this section, each handler shall pay producers, at the time and in the manner set forth in § 978.8, not less than the prices per hundredweight computed as follows for the respective quantities of Class I milk, Class II milk, and Class III milk computed pursuant to § 978.4 (f).

(1) *Class I milk.* The price for Class I milk shall be the basic formula price plus $1.25: *Provided*, That for the delivery periods from the effective date hereof to and including December, 1947, the price for Class I milk shall not be less than $5.35, and that for the delivery periods of January and February, 1948, the price for Class I milk shall not be less than the December, 1947, price less 40 cents.

(2) *Class II milk.* The price for Class II milk shall be the basic formula price plus 75 cents: *Provided*, That for the delivery periods from the effective date hereof to and including December, 1947, the price for Class II milk shall not be less than $4.85, and that for the delivery periods of January and February, 1948, the price for Class II milk shall not be less than the December, 1947, price less 40 cents.

(3) *Class III milk.* The price per hundredweight for Class III milk shall be the arithmetical average of the basic (or field) prices reported to have been paid or to be paid per hundredweight for milk of 4.0 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture on or before the 6th day after the end of the delivery period by the companies indicated below:

Company and Location

Cudahy Packing Co., Lafayette, Tenn.
Carnation Co., Murfreesboro, Tenn.
Kraft Foods Co., Gallatin, Tenn.
Borden Co., Fayetteville, Tenn.
Swift and Co., Lebanon, Tenn.
Borden Co., Lewisburg, Tenn.
Giles County Dairy Products, Pulaski, Tenn.
Lakeshire-Marty Cheese Co., Carthage, Tenn.
Swift and Co., Lawrenceburg, Tenn.
Wilson and Co., Murfreesboro, Tenn.

(c) *Butterfat differential to handlers.* If the weighted average butterfat test of that portion of producer milk which is classified, respectively, in any class of utilization for a handler, pursuant to § 978.4 (f), is more or less than 4.0 percent, there shall be added to, or subtracted from, as the case may be, the price for such class of utilization, for each one-tenth of 1 percent that such weighted average butterfat test is above or below, respectively, 4.0 percent, a butterfat differential (computed to the nearest 10th of a cent), calculated for each class of utilization as follows:

(1) *Class I milk.* Multiply by 1.4 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, and divide the result by 10.

(2) *Class II milk.* Multiply by 1.35 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, and divide the result by 10.

(3) *Class III milk.* Multiply by 1.2 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, and divide the result by 10.

§ 978.6 *Application of provisions*—(a) *Producer-handlers.* Sections 978.4, 978.5, 978.7, 978.8, 978.9, and 978.10 shall not apply to producer-handlers.

(b) Milk received at a fluid milk plant which milk is subject to the pricing and payment provisions of any other Federal milk marketing agreement or order issued pursuant to the act for any fluid milk marketing area shall be considered as other source milk.

§ 978.7 *Determination of uniform price*—(a) *Computation of value of milk.* The value of producer milk received during each delivery period by each handler shall be a sum of money computed by the market administrator by multiplying the pounds of such milk in each class for the delivery period by the applicable class price and adding together the resulting amounts: *Provided*, That if a handler, after subtracting other source milk and receipts from other handlers, has disposed of skim milk or butterfat in excess of the skim milk or butterfat which, on the basis of his report for the delivery period pursuant to § 978.3 (a), has been credited to producers as having been received from them, there shall be added an amount computed by multiplying the pounds in each class as subtracted pursuant to subparagraphs (1) (iv) and (2) of § 978.4 (f) by the applicable class price adjusted by the butterfat differentials to handlers specified in § 978.5 (c).

(b) *Computation of the uniform price.* For each delivery period, the market administrator shall compute the uniform price per hundredweight for milk, on the basis of 4.0 percent butterfat content, received from producers as follows:

(1) Combine into one total the values computed pursuant to paragraph (a) of this section for all handlers who made the reports prescribed by § 978.3 (a) for such delivery period, except those in default of payments required pursuant to § 978.8 (c) for the preceding delivery period;

(2) Subtract, if the average butterfat content of producer milk represented by the values included under subparagraph (1) of this paragraph is greater than 4.0

percent, or add, if such average butterfat content is less than 4.0 percent, an amount computed as follows: multiply the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential computed pursuant to § 978.8 (f), and multiply the result by the total hundredweight of such milk;

(3) Add an amount representing the cash balance on hand in the producer-settlement fund, less the total amount of contingent obligations to handlers pursuant to § 978.8 (d);

(4) Divide the resulting amount by the total hundredweight of producer milk included in these computations; and

(5) Subtract not less than 4 cents nor more than 5 cents for the purpose of retaining in the producer-settlement fund a cash balance to provide against errors in reports and payments or delinquencies in payments by handlers. This result shall be known as the "uniform price" per hundredweight for such delivery period for producer milk containing 4.0 percent butterfat, f. o. b. fluid milk plant.

(c) *Notification of handlers.* On or before the 10th day after the end of each delivery period, the market administrator shall mail to each handler, at his last known address, a statement showing:

(1) The amount and value of his producer milk in each class and the total thereof;

(2) The uniform price computed pursuant to paragraph (b) of this section and the butterfat differentials computed pursuant to § 978.8 (f); and

(3) The amounts to be paid by such handler pursuant to §§ 978.8 (c), 978.9, and 978.10.

§ 978.8 *Payments to producers*—(a) *Time and method of payment.* (1) On or before the last day of each delivery period, each handler shall make payment to each producer, at not less than 75 percent of the uniform price per hundredweight for the preceding delivery period, for milk received from such producer during the first 15 days of such delivery period: *Provided,* That for the first delivery period under this order such payment shall be not less than 75 percent of the price per hundredweight for 4.0 percent milk paid to producers by such handler for milk delivered during the last half of the immediately preceding delivery period.

(2) On or before the 15th day after the end of each delivery period, each handler shall make payment to each producer, for milk received from such producer during such delivery period, at not less than the uniform price per hundredweight computed pursuant to § 978.7 (b), subject to the following adjustments: (i) the butterfat differential pursuant to paragraph (f) of this section, (ii) less payment made pursuant to subparagraph (1) of this paragraph, (iii) less marketing service deductions pursuant to § 978.10, (iv) less deductions authorized by the producer, and (v) any error in calculating payment to such individual producer for past delivery periods: *Provided,* That if by such date such handler has not received full payment for such delivery period pursuant to paragraph (d) of this section, he may reduce uniformly per hundredweight for all producers his payments pursuant to this paragraph by an amount not in excess of the per hundredweight reduction in payment from the market administrator; however, the handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payment is received from the market administrator.

(b) *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to paragraphs (c) and (e) of this section, and out of which he shall make all payments pursuant to paragraphs (d) and (e) of this section: *Provided,* That payments due to any handler shall be offset by payments due from such handler.

(c) *Payments to the producer-settlement fund.* On or before the 13th day after the end of each delivery period, each handler shall pay to the market administrator any amount by which the total value of his milk computed pursuant to § 978.7 (a) for such delivery period is greater than an amount computed by multiplying the hundredweight of milk received from producers during the delivery period by the uniform price adjusted for the butterfat differential provided for in paragraph (f) of this section.

(d) *Payments out of the producer-settlement fund.* On or before the 14th day after the end of each delivery period, the market administrator shall pay to each handler, for payment to producers, any amount by which the total value of his milk computed pursuant to § 978.7 (a) for such delivery period is less than an amount computed by multiplying the hundredweight of milk received from producers during the delivery period by the uniform price adjusted for the butterfat differential provided for in paragraph (f) of this section. If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

(e) *Adjustment of errors in payments.* Whenever verification by the market administrator of payments by any handler discloses errors made in payments to the producer-settlement fund pursuant to paragraph (c) of this section, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, pursuant to paragraph (d) of this section, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer for milk received by such handler discloses payment of less than is required by this section, the handler shall pay such balance due such producer not later than the time of making payment to producers next following such disclosure.

(f) *Butterfat differential to producers.* If, during the delivery period, any handler has received from any producer, milk having an average butterfat content other than 4.0 percent, such handler, in making payments prescribed in paragraph (a) (2) of this section, shall add to the uniform price per hundredweight paid to such producer for each one-tenth of 1 percent that the average butterfat content of such milk is above 4.0 percent not less than, or shall deduct from the uniform price per hundredweight for each one-tenth of 1 percent that the average butterfat content of such milk is below 4.0 percent not more than, an amount computed as follows: multiply by 1.2 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, and divide the result by 10, and then adjust to the nearest one-tenth of a cent.

(g) *Statement to producers.* In making payments required by paragraph (a) (2) of this section each handler shall furnish each producer with a supporting statement in such form that it may be retained by the producer, which shall show:

(1) The delivery period and the identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of milk delivered by the producer;

(3) The minimum rate or rates at which payment to the producer is required under the provisions of paragraphs (a) and (f) of this section;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum;

(5) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deduction claimed under § 978.10, together with a description of the respective deductions; and

(6) The net amount of payment to the producer.

§ 978.9 *Expense of administration.* As his pro rata share of the expense of the administration hereof, each handler shall pay to the market administrator, on or before the 15th day after the end of each delivery period, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to receipts, during the delivery period, of (a) milk from producers (including such handler's own production), and (b) other source milk received at a fluid milk plant.

§ 978.10 *Marketing services*—(a) *Deductions for marketing services.* Except as set forth in paragraph (b) of this section, each handler shall deduct an amount not exceeding 6 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to all milk received by such handler from producers during the delivery period and shall pay such deductions to the market

administrator not later than the 15th day after the end of the delivery period. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received by handlers from producers during the delivery period and to provide such producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engage by and responsible to him.

(b) *Producers' cooperative associations.* In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions, as are authorized by such producers and, on or before the 15th day after the end of each delivery period, pay over such deductions to the association rendering such services.

§ 978.11 *Effective time, suspension, and termination*—(a) *Effective time.* The provisions hereof, or any amendments hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

(b) *Suspension or termination.* The Secretary shall suspend or terminate any or all of the provisions hereof, whenever he finds that it obstructs or does not tend to effectuate the declared policy of the act. This order shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

(c) *Continuing power and duty of the market administrator.* (1) If, upon the suspension or termination of any or all of the provisions hereof, there are any obligations arising hereunder, the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided,* That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(2) The market administrator, or such other person as the Secretary may designate (i) shall continue in such capacity until discharged by the Secretary; (ii) from time to time account for all receipts and disbursements and deliver all funds or property on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct; and (iii) if so directed by the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

(d) *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions hereof, the market administrator or such person as the Secretary may designate shall, if so directed by the Secretary, liquidate the business of the market administrator's office, and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions hereof, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 978.12 *Separability of provisions.* If any provisions hereof, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions hereof, to other persons or circumstances shall not be affected thereby.

§ 978.13 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions hereof.

Filed at Washington, D. C., this 22d day of September 1947.

[SEAL] S. R. NEWELL,
Acting Assistant Administrator.

[F. R. Doc. 47-8708; Filed, Sept. 25, 1947; 8:47 a. m.]

NOTICES

DEPARTMENT OF THE TREASURY

United States Coast Guard

[CGFR 47-47]

APPROVAL OF EQUIPMENT

By virtue of the authority vested in me by R. S. 4405 and 4491, as amended (46. U. S. C. 375, 489), and section 101 of Reorganization Plan No. 3 of 1946 (11 F. R. 7875), as well as the additional authorities cited with each class of equipment, the following approvals of equipment are prescribed effective for a period of five years from date of publication in the FEDERAL REGISTER unless sooner canceled or suspended by proper authority:

BUOYANT CUSHIONS, NON-STANDARD

NOTE: Cushions are limited to service on motorboats of classes A, 1, and 2 not carrying passengers for hire in accordance with 46 CFR 25.4-1.

Approval No. 160.008/374/0, 24" x 25⅝" x 3" rectangular buoyant cushion, 82 oz. kapok, USCG Specification 160.008, Dwg. No. 181-105, dated 25 August 1947, manufactured by Cluff Fabric Products, 457-467 East 147th Street, New York, New York.

BUOYANT APPARATUS

Approval No. 160.010/11/0, buoyant apparatus, spruce, copper tanks, 20-person capacity, Dwg. dated 1 April 1936, submitted by Tregoning Boat Co., Post Office Box 151, Alderwood Manor, Washington.

Approval No. 160.010/12/0, buoyant apparatus, plywood, Type B, 20-person capacity, Dwg. dated May 1940, submitted by Tregoning Boat Co., Post Office Box 151, Alderwood Manor, Washington.

NOZZLES, WATER SPRAY (FIXED TYPE)

Approval No. 160.025/10/0, Model A non-adjustable, 1½" fixed type, water spray nozzle, Dwg. No. 1, dated 4 March 1938, manufactured by Sculler Safety Corp., 116 Broad Street, New York 4, New York.

LINE-THROWING APPLIANCES (LYLE GUN TYPE)

Approval No. 160.029/10/0, steel line-throwing appliance, Lyle gun type, Assembly Dwg. No. SSC-105-3, Alt. A, revised 19 December 1940, and Detail Dwg. No. SSC-105-4, Alt. A, revised 19 December 1940, manufactured by Sculler Safety Corp., 116 Broad Street, New York 4, New York.

FIRING ATTACHMENT FOR LYLE GUN TYPE LINE-THROWING APPLIANCES

Approval No. 160.030/3/0, Model 2 firing attachment for Lyle gun type line-throwing appliance, Dwgs. No. FA 30 and FA 31, Rev. 28 April 1945, manufactured by Columbia Appliance Corporation, 8-13 Forty-Third Road, Long Island City 1, New York.

Approval No. 160.030/4/0, Type A firing attachment for Lyle type line-throwing gun, Dwg. No. C-32A, revised 25 April 1945, submitted by Coston Supply Co., Inc., 31 Water Street, New York 4, New York.

LINE-THROWING APPLIANCES (SHOULDER GUN TYPE)

Approval No. 160.031/3/0, Line-throwing appliance, shoulder gun type, Dwg. No. 15, submitted by Coston Supply Co., Inc., 31 Water Street, New York 4, New York.

LIFEBOATS

Approval No. 160.035/149/0, 22' x 7.5' x 3.15' steel, oar-propelled lifeboat, 31-person capacity, identified by Construction and Arrangement Dwg. No. OMS-460-A, dated June 1947, submitted by Tregoning Industries, Inc., P. O. Box 151, Alderwood Manor, Washington.

Approval No. 160.035/150/0, 26' x 8.5' x 3.825' steel, oar-propelled lifeboat, 50-person capacity, identified by Construction and Arrangement Dwg. No. OMS 600A, submitted by Tregoning Industries, Inc., Seattle, Washington.

Dated: September 19, 1947.

[SEAL] J. F. FARLEY,
Admiral, U. S. Coast Guard,
Commandant.

[F. R. Doc. 47-8689; Filed, Sept. 25, 1947; 8:49 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. SA-149]

ACCIDENT OCCURRING AT LAGUARDIA FIELD, NEW YORK

NOTICE OF HEARING

In the matter of investigation of accident involving aircraft of United States Registry NX 88787 which occurred at LaGuardia Field, New York, on August 8, 1947.

Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended, particularly section 702 of said act, in the above-entitled proceeding that hearing is hereby assigned to be reconvened on Tuesday, September 30, 1947, at 9:30 a. m. (e. s. t.) at the Empire Room, Lexington Hotel, New York, New York.

Dated at Washington, D. C., September 23, 1947.

[SEAL] R. W. CHRISP, *Presiding Officer.*

[F. R. Doc. 47-8713; Filed, Sept. 25, 1947; 8:46 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 8517]

SUPREME BROADCASTING SYSTEM, INC. (WJMR)

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Supreme Broadcasting System, Inc. (WJMR), New Orleans, Louisiana, for modification of license. Docket No. 8517, File No. BML-1260.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 11th day of September 1947;

The Commission having under consideration the above-entitled application which requests that the present license of Station WJMR, New Orleans, Louisiana, authorizing operation on 990 kc, with 250 w power, daytime only, be modified so as to permit unlimited operation with the present frequency and power;

It is ordered, That, pursuant to section 309 (a) of the Communications Act of 1934, as amended, the said application be, and it is hereby, designated for hearing at a time and place to be designated by subsequent order of the Commission, upon the following issues:

1. To determine the areas and population which may be expected to gain primary service from the operation of station WJMR as proposed and the character of other broadcast service available to those areas and populations.

2. To determine whether the operation of Station WJMR as proposed would produce a signal at the Canadian border in excess of that stipulated by the terms of the North American Regional Broadcasting Agreement.

3. To determine whether the installation and operation of Station WJMR as proposed would be in compliance with the Commission's rules and Standards of Good Engineering Practice Concerning Standard Broadcast Stations.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 47-8700; Filed, Sept. 25, 1947; 8:51 a. m.]

[Docket Nos. 6916, 6917]

SCRIPPS-HOWARD RADIO, INC., AND CLEVELAND BROADCASTING INC.

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Scripps-Howard Radio, Inc., Cleveland, Ohio, for construction permit, Docket No. 6916, File No. B2-P-4118; Cleveland Broadcasting Incorporated, Cleveland, Ohio, for construction permit, Docket No. 6917, File No. B2-P-4058.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 5th day of September 1947.

The Commission having before it a petition filed March 27, 1947, by Scripps-Howard Radio, Inc. pursuant to section 405 of the Communications Act requesting the Commission to reconsider its decision of February 5, 1947, released March 7, 1947, on the above-entitled applications denying the application of petitioner and granting the competing application of Cleveland Broadcasting Incorporated for a construction permit for a standard broadcast station in Cleveland, Ohio, and further denying petitioner's alternative petition for rereference of the applications to the examiner to take further testimony upon the applications, and Commission also having before it the opposition filed March 31, 1947, by Cleveland Broadcasting, Inc., to the said Scripps-Howard petition, and

In appearing that the public interest, convenience and necessity would be served through the reopening of the record in the above-entitled proceeding to take further testimony with respect to the qualifications of the applicants and the type and character of the program services proposed to be rendered by the applicants,

Now, therefore, it is ordered, This 5th day of September 1947, that the petition for rehearing be and is hereby granted, and that the Decision of February 5, 1947, released March 7, 1947, granting the application of Cleveland Broadcasting, Inc. (Docket 6917, File No. B2-P-4058) and denying the application of Scripps-Howard Radio, Inc. (Docket 6916, File No. B2-P-4118) be and is hereby set aside and vacated, and the above-entitled applications of Scripps-Howard Radio, Inc., and Cleveland Broadcasting Incorporated are hereby designated for further hearing upon the issues set forth in the notices of hearing on the respective applications, dated December 17, 1945, particularly upon:

(a) The qualifications of the applicant corporations, their officers, directors and stockholders to construct and operate a radio station with respect to their length of residence, their knowledge of and familiarity with the community to be served; the extent of the integration of the ownership of the applicants and the management of the proposed radio stations; and the extent to which, if any, either of the applicants is associated with other media of mass communication in the area to be served.

(b) The type and character of the program services proposed to be rendered and whether it would meet the requirements of the areas and populations proposed to be served.

Released: September 10, 1947.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 47-8699; Filed, Sept. 25, 1947; 8:51 a. m.]

[Docket No. 7974]

RADIOTELEGRAPH SERVICE BETWEEN UNITED STATES AND FOREIGN AND OVERSEAS POINTS AND ASSIGNMENT OF FREQUENCIES FOR SUCH SERVICE

ORDER EXTENDING LICENSES

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 19th day of September 1947;

The Commission, having under consideration its order of November 27, 1946, herein; and

It appearing, that the present regular licenses of the applicants herein in the fixed public and fixed public press radio services, which were temporarily extended by the aforementioned Order of November 27, 1946, will expire on December 1, 1947;

It further appearing, that the proceedings herein will not be completed by December 1, 1947;

It is ordered, That pursuant to § 1.384 of the Commission's rules and regulations, the aforementioned temporary licenses, as modified between December 1, 1946 and December 1, 1947, of All America Cables and Radio, Inc.; Globe Wireless, Ltd.; Mackay Radio and Telegraph Company, Inc.; Press Wireless, Inc.; RCA Communications, Inc.; South Porto Rico Sugar Company; Tropical Radio Telegraph Company; and United States-Liberia Radio Corporation, in the fixed public and fixed public press radio services, are further temporarily extended to December 1, 1948, subject to any determinations to be made by the Commission in the proceeding herein, or in any other proceeding presently pending and affecting such licenses.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 47-8702; Filed, Sept. 25, 1947; 8:54 a. m.]

TEMPORARY LIMITED RADIOTELEGRAPH SECOND CLASS OPERATOR LICENSES

ORDER REINSTATING AND EXTENDING CERTAIN LICENSES

At a meeting of the Federal Communications Commission held at its offices in Washington, D. C., on the 19th day of September 1947;

The Commission having under consideration the alleviation of the present shortage of qualified radiotelegraph operators possessing the six months' experience required by section 353 (b) of the Communications Act of 1934, as amended; and

It appearing, that Temporary Limited Radiotelegraph Second Class Operator Licensees in many instances possess the experience required by section 353 (b) of the Communications Act of 1934, as amended; and

It further appearing, that this class of license was created by Commission Order 97, dated and effective May 19, 1942, with a term to run for the duration of the war plus six months but not beyond five years from the date of issuance; and

It further appearing, that Commission Order 136, effective June 30, 1946, cancelled Commission Order 97 insofar as concerned the further issuance of these licenses but provided for the continuing validity in accordance with their terms of those licenses then outstanding; and

It further appearing, that such licenses have under their five-year terms in some cases expired since May 1947, and in other cases will expire prior to July 1, 1948; and

It further appearing, that a shortage of qualified radiotelegraph operators possessing the six months' experience required by section 353 (b) of the Communications Act of 1934, as amended, presently exists and is of uncertain duration; and

It further appearing, that it is desirable to alleviate this shortage by the fullest use of former and present Temporary Limited Radiotelegraph Second Class Operator Licensees;

It is ordered, That every Temporary Limited Radiotelegraph Second Class Operator License which by its terms has now expired or may expire prior to July 1, 1948 shall, if now expired, be reinstated and extended, and if not now expired shall be extended, through June 30, 1948, or such earlier date as the Commission may hereafter designate: *Provided*, That the provisions of this order shall not apply to any such license which has been or may hereafter be suspended by Commission order;

It is further ordered, That this order shall become effective immediately.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 47-8703; Filed, Sept. 25, 1947; 8:54 a. m.]

TEMPORARY LIMITED RADIOTELEGRAPH SECOND CLASS OPERATOR LICENSES REINSTATED AND EXTENDED FOR SHORT PERIOD

SEPTEMBER 19, 1947.

The Commission on September 19, 1947 adopted an order,[1] effective immediately, which reinstated and extended, or simply extended, as the case might be, all Temporary Limited Radiotelegraph Second Class Operator Licenses which have expired or would otherwise expire by their own terms before July 1, 1948, except licenses which have been or may hereafter be suspended by Commission Order.

The purpose of this Commission action is to enable holders of this class of license to help meet the existing shortage of licensed radiotelegraph operators who have the six months' previous experience required by the Communications Act of 1934, as amended, for radio operators of certain United States cargo ships.

The extension is valid until further order of the Commission, but in no event beyond June 30, 1948.

In order that each license which is affected by this action of the Commission may show on its face that it has been extended or reinstated and extended, as the case may be, holders of these licenses which have expired or are due to expire prior to July 1, 1948 should present them to a Commission Engineer in Charge of a district or port office and request by Form 756 an endorsement showing the extension or reinstatement thereof. The endorsement of the issuing officer will read as follows:

Validity extended temporarily through June 30, 1948 per Commission order dated September 19, 1947.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 47-8704, Filed, Sept. 25, 1947; 8:54 a. m.]

STATION WABJ, ADRIAN, MICH.[2]

PUBLIC NOTICE CONCERNING THE PROPOSED ASSIGNMENT OF LICENSE

The Commission hereby gives notice that on August 22, 1947 there was filed with it an application (BAL-648) for its consent under section 310 (b) of the Communications Act to the proposed assignment of license for station WABJ, Adrian, Michigan, from Gail D. Griner and Alden M. Cooper, a partnership doing business as The Adrian Broadcasting Company, to James Gerity, Jr., Adrian, Michigan. The proposal to assign the license arises out of a contract of August 2, 1947 under which the station properties would be sold for a total consideration of $62,000 of which $10,000 has been placed in escrow, the remaining $52,000 would be paid on or before 30 days after Commission approval. Further information as to the arrangements may be found with the application and associated papers which are on file at the offices of the Commission in Washington, D. C.

Pursuant to § 1.321 which sets out the procedure to be followed in such cases including the requirement for public notice concerning the filing of the application, the Commission was advised by applicant on September 15, 1947 that starting on September 9, 1947 notice of the filing of the application would be inserted in "Adrian Daily Telegram", a newspaper of general circulation at Adrian, Michigan in conformity with the above rule.

In accordance with the procedure set out in said rule, no action will be had upon the application for a period of 60 days from September 9, 1947 within which time other persons desiring to apply for the facilities involved may do so upon the same terms and conditions as set forth in the above described contract.

(Sec. 310 (b), 48 Stat. 1086; 47 U. S. C. 310 (b))

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 47-8701; Filed, Sept. 25, 1947; 8:51 a. m.]

[1] F. R. Doc. 47-8703, *supra*.

[2] Section 1.321, Part 1, Rules of Practice and Procedure.

INTERSTATE COMMERCE COMMISSION

[S. O. 396, Special Permit 291]

RECONSIGNMENT OF PEACHES AT CHICAGO, ILL.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph of Service Order No. 396 (10 F. R. 15008), permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 396 insofar, as it applies to the reconsignment at Chicago, Ill., September 18, 1947, by Cuneo Bros., of car MDT 17412, peaches, now on the CNW Ry. to Milwaukee, Wis.

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 18th day of September 1947.

HOMER C. KING,
Director,
Bureau of Service.

[F. R. Doc. 47-8693; Filed, Sept. 25, 1947; 8:50 a. m.]

[S. O. 769, Special Permit 6]

SHIPMENT OF LUMBER FROM OLYMPIA AND SEATTLE, WASH., AND GRESHAM, OREG.

Pursuant to the authority vested in me by paragraph (d) of the first ordering paragraph of Service Order No. 769 (12 F. R. 6088), permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard the provisions of Service Order No. 769 insofar as it applies to the shipment of lumber from Olympia and Seattle, Wash. also from Gresham, Oreg., by the Pacific Western Lumber Co. or R. G. Robbins Lumber Co.

The waybills shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 18th day of September 1947.

HOMER C. KING,
Director,
Bureau of Service.

[F. R. Doc. 47-8694; Filed, Sept. 25, 1947; 8:50 a. m.]

[S. O. 769, Special Permit 7]

SHIPMENT OF REFRIGERATION PRODUCTS FROM HUDSON, WIS.

Pursuant to the authority vested in me by paragraph (d) of the first ordering paragraph of Service Order No. 769 (12 F. R. 6088), permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard the provisions of Service Order No. 769 insofar as it applies to the shipment of refrigeration products from Hudson, Wis. by United Refrigerator Mfg. Co.

The waybills shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 18th day of September 1947.

HOMER C. KING,
Director,
Bureau of Service.

[F. R. Doc. 47-8695; Filed, Sept. 25, 1947; 8:49 a. m.]

[S. O. 769, Special Permit 8]

SHIPMENT OF LUMBER AND SHINGLES FROM TACOMA, WASH.

Pursuant to the authority vested in me by paragraph (d) of the first ordering paragraph of Service Order No. 769 (12 F. R. 6088), permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard the provisions of Service Order No. 769 insofar as it applies to the shipment of lumber and shingles from Tacoma, Wash., by the Northwest Door Company.

The waybills shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 18th day of September 1947.

HOMER C. KING,
Director,
Bureau of Service.

[F. R. Doc. 47-8696; Filed, Sept. 25, 1947; 8:49 a. m.]

[S. O. 769, Special Permit 9]

SHIPMENT OF CHINAWARE PLUMBING FIXTURES FROM FORD CITY, PA.

Pursuant to the authority vested in me by paragraph (d) of the first ordering paragraph of Service Order No. 769 (12 F. R. 6088), permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard the provisions of Service Order No. 769 insofar as it applies to the shipment of chinaware plumbing fixtures by the Eljer Co. from Ford City, Pa.

The waybills shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 18th day of September 1947.

HOMER C. KING,
Director,
Bureau of Service.

[F. R. Doc. 47-8697; Filed, Sept. 25, 1947; 8:49 a. m.]

[S. O. 769, Special Permit 10]

SHIPMENT OF HOUSEHOLD GOODS FROM BOSTON, MASS.

Pursuant to the authority vested in me by paragraph (d) of the first ordering paragraph of Service Order No. 769 (12 F. R. 6088), permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard the provisions of Service Order No. 769 insofar as it applies to the shipment of 1 car household goods from Boston, Mass. stop off New Haven, Conn. by Judson Freight Forwarding Co.

The waybills shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 19th day of September 1947.

HOMER C. KING,
Director,
Bureau of Service.

[F. R. Doc. 47-8698; Filed, Sept. 25, 1947; 8:49 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 7-1002]

ST. REGIS PAPER CO.

NOTICE OF APPLICATION FOR UNLISTED TRADING PRIVILEGES, AND OF OPPORTUNITY FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Philadelphia, Pa., on the 22d day of September A. D. 1947.

In the matter of application by the Boston Stock Exchange for unlisted trading privileges in St. Regis Paper Company, Common Stock, $5.00 Par Value; File No. 7-1002.

The Boston Stock Exchange, pursuant to section 12 (f) (2) of the Securities Exchange Act of 1934 and Rule X-12F-1 thereunder, has made application for unlisted trading privileges in the Common Stock, $5.00 Par Value, of St. Regis Paper Company, a security listed and registered on the New York Stock Exchange.

Rule X-12F-1 provides that the applicant shall furnish a copy of the application to the issuer and to every exchange on which the security is listed or already admitted to unlisted trading privileges. The application is available for public inspection at the Commission's principal office in Philadelphia, Pennsylvania.

Notice is hereby given that, upon request of any interested person received prior to October 22, 1947, the Commis-

sion will set this matter down for hearing. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Philadelphia, Pennsylvania. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application, and other information contained in the official file of the Commission pertaining to this matter.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 47-8685; Filed, Sept. 25, 1947; 8:51 a. m.]

[File No. 70-1624]

NORTH AMERICAN LIGHT & POWER CO. AND ILLINOIS POWER CO.

NOTICE OF FILING AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 19th day of September 1947.

Notice is hereby given that an application-declaration has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("act") and the Rules and Regulations promulgated thereunder, jointly by North American Light & Power Company ("Light & Power"), a registered holding company, and its subsidiary, Illinois Power Company ("Illinois Power"), also a registered holding company. Applicants-declarants designate sections 6 (b), 9 (a), 10, 12 (d) and 12 (f) and Rules U-23, U-43 and U-44 thereunder as being applicable to the proposed transactions.

All interested persons are referred to said application-declaration which is on file in the office of this Commission for a statement of the transactions therein proposed, which are summarized as follows:

Light & Power and Illinois Power have entered into an agreement whereby Light & Power proposes to sell all of its interest in its subsidiary, Kewanee Public Service Company ("Kewanee"), to Illinois Power in consideration for the issuance and delivery to Light & Power by Illinois Power of 16,000 shares of common stock of Illinois Power. Light & Power presently holds all (10,000 shares) of the common stock of Kewanee, 1,496 of 7% cumulative preferred stock, $50 par value, of Kewanee on which dividends of $50.75 per share were accrued and unpaid to June 30, 1947 (5,504 shares of such preferred stock are held publicly) and $210,000 principal amount of 5½% notes of Kewanee on which interest in the amount of $38,500 was accrued to June 30, 1947. Kewanee also has outstanding $594,000 principal amount of First Mortgage Bonds, Series A, 3¼%, due May 1, 1976.

The applicants-declarants state that the proposed transactions are subject to the jurisdiction of the Illinois Commerce Commission.

It appearing to the Commission that it is appropriate in the public interest and in the interest of investors and consumers that a hearing be held with respect to the matters set forth in said application-declaration and that said application-declaration should not be granted or permitted to become effective except pursuant to further order of this Commission:

It is ordered, That a hearing on said application-declaration under the applicable provisions of the act and the rules and regulations thereunder be held at 10:00 a. m., e. s. t., on the 14th day of October 1947, at the office of the Securities and Exchange Commission, 18th and Locust Streets, Philadelphia 3, Pennsylvania. On such date, the hearing room clerk in Room 318 will advise as to the room in which such hearing shall be held. Any person desiring to be heard or otherwise wishing to participate in this proceeding shall file with the Secretary of the Commission on or before the 13th day of October 1947, his request or application therefor, as provided by Rule XVII of the Commission's rules of practice.

It is further ordered, That William W. Swift or any other officer or officers of this Commission designated by it for that purpose shall preside at the hearing in such matter. The officer so designated to preside at said hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of the act and to a hearing officer under the Commission's rules of practice.

The Public Utilities Division of the Commission having advised the Commission that it has made a preliminary examination of the application-declaration and that, upon the basis thereof, the following matters and questions are presented for consideration without prejudice, however, to the presentation of additional matters and questions upon further consideration:

1. Whether the proposed transactions are detrimental to compliance with the Commission's order dated July 23, 1946 requiring that Kewanee recapitalize (without reference to its first mortgage bonds) on a basis of a single class of common stock.

2. Whether the proposed issuance of common stock by Illinois Power is exempt from the provisions of sections 6 (a) and 7 of the act pursuant to section 6 (b) thereof and, if not, whether the requirements of section 7 of the act are met.

3. Whether in the event that the proposed issuance of common stock of Illinois Power is exempt pursuant to the provisions of section 6 (b) of the act, it is necessary or appropriate in the public interest or for the protection of investors or consumers to impose terms and conditions and, if so, what terms and conditions should be imposed.

4. Whether the transactions proposed to be undertaken by Light & Power and Illinois Power satisfy the requirements of sections 12 (d) and 12 (f) of the act.

5. Whether the proposed acquisitions by Illinois Power of securities of Kewanee satisfies the requirements of section 10 of the act.

6. Whether it is necessary or appropriate in the public interest or for the protection of investors or consumers that the Commission condition its approval of the acquisition by Illinois Power of securities of Kewanee upon a fair offer by Illinois Power to purchase publicly held preferred stock of Kewanee and, if so, what the terms of such condition should be.

7. Whether the proposed acquisition by Light & Power of common stock of Illinois Power satisfies the requirements of section 10 of the act.

8. Whether the accounting entries proposed to be recorded by Light & Power and Illinois Power in connection with the proposed transactions are proper, conform to sound accounting principles and meet the standards of the act.

9. Whether the fees, commissions or other remuneration to be paid in connection with the proposed transactions are for necessary services and are reasonable in amount.

10. Whether the proposed transactions are in all respects in the public interest and in the interest of investors and consumers and consistent with all applicable requirements of the act and the rules thereunder and, if not, whether and what modifications or terms and conditions should be required to be imposed to satisfy the standards of the act;

It is further ordered, That at said hearing evidence shall be adduced with respect to the foregoing matters and questions.

It is further ordered, That the Secretary of the Commission shall serve a copy of this order by registered mail on North American Light & Power Company, Illinois Power Company, the Illinois Commerce Commission, and the City of Kewanee, Illinois, and that notice of said hearing shall be given to all other persons by general release of this Commission which shall be distributed to the press and mailed to the mailing list for releases issued under the Public Utility Holding Company Act of 1935 and that further notice be given to all other persons by publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 47-8687; Filed, Sept. 25, 1947; 8:50 a. m.]